

1 SUPREME COURT OF THE STATE OF NEW YORK.
2 COUNTY OF NEW YORK - CIVIL TERM - PART 34

-----X

3 GREGORY SCOTT,

4 Plaintiff,

5 -against-

6 KOSOVA PROPERTIES, INC. HAMDI NEZAJ
7 SHPEND NEZAJ, AND LAZER PLUNAJ,

8 Defendants.

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9 Index # 155225/2016 JURY TRIAL
10 60 Centre Street
New York, New York 10007

11 March 5, 2025

12 B E F O R E:

13 HONORABLE DAKOTA D. RAMSEUR,
14 Supreme Court Justice.

15 A P P E A R A N C E S:

16 THE BASIL LAW GROUP
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23 Attorneys for Defendant

24 DEBORAH A. ROTHROCK, RPR
25 Official Court Reporter

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1 THE COURT: Let's go on the record.

2 Case on trial continues. Make your appearances for
3 the record.

4 MR. COHEN: David Cohen, Basil Law Group for the
5 Plaintiff, Gregory Scott.

6 MR. BASIL: Robert Basil from the Basil Law Group
7 for Plaintiff, Gregory Scott.

8 MR. SCOTT: I'm the Plaintiff, Gregory Scott.

9 MR. COOKSON: John Cookson from McElroy Deutsch
10 Mulvaney & Carpenter, LLP for the Defendants Kosova
11 Properties, Hamdi Nezaj and Shpend Nezaj.

12 THE COURT: Okay. Anyone else joining you today?

13 MR. COOKSON: Beg your pardon?

14 THE COURT: Anyone else joining you today?

15 MR. COOKSON: Mr. LaSala, he will be here, your
16 Honor. I didn't realize we were doing this. I didn't tell
17 him to come this early.

18 THE COURT: When you said, "you didn't realize," I
19 told you to come at 9:00. You didn't realize we were doing
20 this?

21 MR. COOKSON: You said 9:15.

22 THE COURT: You were here 9:15?

23 MR. COOKSON: I think I was here 9:17, your Honor.

24 THE COURT: When do you expect him?

25 MR. COOKSON: Not for awhile. We can proceed

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1 without him.

2 THE COURT: Thank you.

3 With that said, so that the record is clear, this
4 is a trial that is continuing; the substance of the trial
5 already happened. Plaintiff had rested.

6 MR. COOKSON: No, we did not get there yet.

7 THE COURT: No?

8 MR. BASIL: No, we were in the middle of the
9 cross-examination of the Plaintiff.

10 THE COURT: Okay, great. So there's more of his
11 testimony?

12 MR. BASIL: I assume it will be to finish up the
13 cross-examination and re-direct. We expect that that will
14 be the end of the Plaintiff's case.

15 THE COURT: Yes.

16 MR. BASIL: Whatever Mr. Cookson is going to do
17 next is up to Mr. Cookson.

18 THE COURT: What are we expected after Plaintiff
19 today? As you know, this is the continued trial today and,
20 obviously, you have your witnesses ready?

21 MR. COOKSON: If I choose to call any, yes.

22 THE COURT: I am asking.

23 MR. COOKSON: I have not made my decision yet.

24 THE COURT: Okay.

25 MR. COOKSON: Trial is a fluid thing so I will make

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1 my decision when I have to.

2 THE COURT: I'm sorry, just so that I'm clear,
3 we're on the cross of the Plaintiff?

4 MR. COOKSON: We have not started that yet, that is
5 where we broke.

6 THE COURT: Okay. So you're not prepared to tell
7 me who, if anybody, you may call after that?

8 MR. COOKSON: Well, I think I have the right for
9 the Plaintiff to rest his case first.

10 THE COURT: I want to make sure --you're not going
11 to give me heads-up whether or not you have a witness
12 prepared to testify after we're done with the Plaintiff
13 today?

14 MR. COOKSON: Your Honor, I may not need a witness
15 to testify.

16 THE COURT: Okay. Just to make sure, do you have
17 anybody after this?

18 MR. BASIL: We do not once Mr. Scott is done and I
19 have re-direct, the Plaintiff will rest.

20 THE COURT: Okay. How long do you anticipate
21 taking?

22 MR. COOKSON: I don't know. I don't know your
23 Honor, maybe an hour.

24 THE COURT: All right. No problem.

25 Because we'll just keep going after the Plaintiff

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1 rests. If you don't call a witness we'll continue, we'll go
2 to the jury, correct?

3 MR. COOKSON: That would be the case, yes.

4 THE COURT: Okay. So with that said, we are going
5 to take this opportunity to put the results of our various
6 charge conversations on the record. We have a new reporter
7 today so it's important you give her the information for the
8 purposes of appeal. And note that we already started this
9 charging conference on the last time we were together and we
10 had certain items reserved. So, I don't want to be
11 repetitious because you took the time to do it on the
12 previous date and you were thorough.

13 I'm going to start at P.J.I. charge 1:20 and will
14 read the order of the numbers. While I say the numbers, I
15 take it you don't need me to say what the charges are,
16 right. You have your own documents before you, is that
17 correct?

18 You have yours, Mr. Cookson, Mr. Basil, Mr. Cohen?

19 MR. BASIL: Yes.

20 MR. COHEN: Yes.

21 MR. COOKSON: Yes.

22 THE COURT: Okay. I would like the record reflect
23 we all had a conference call where I acknowledged receipt of
24 the collective e-mail that address many of the issues that
25 were reserved on our last date and were sent with edits.

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1 So at this time I might not say P.J.I. all the time
2 but I will say number colon. It is going to be the P.J.I.
3 I'm talking about are we ready to begin.

4 MR. COOKSON: Yes, your Honor.

5 THE COURT: Thank you.

6 So Introduction, P.J.I. 1:20.

7 P.J.I. 1:21, Review Principles Stated.

8 P.J.I. 1:22, Falsus in Uno.

9 P.J.I. 1:24, Return to Courtroom.

10 P.J.I. 1:25, Consider Only Testimony and Exhibits.

11 P.J.I. 1:25(c), Interested Witness Generally.

12 P.J.I. 1:26(a), 5/6 Verdict.

13 P.J.I. 1:27, Exclude Sympathy.

14 P.J.I. 1:28, Jury Function.

15 P.J.I. 1:60 and 1:65, as submitted by the parties,
16 collectively, as a way to edit the burden of proof. I will
17 read that exactly as is.

18 P.J.I. 1:70, General Instruction Circumstantial
19 Evidence.

20 P.J.I., 1:75(1), General Instruction Necessary to
21 Produce Party. Mr. Cookson.

22 MR. COOKSON: I object to that instruction, your
23 Honor. The individual did not testify, is a party to the
24 lawsuit, not a party that I represent.

25 THE COURT: Yes, thank you.

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1 I believe this was an issue for a pre-trial motion
2 as we discussed and I made such a ruling and the parties
3 have the record from that as well.

4 I will read this charge so that the record is clear
5 at this juncture. Generally if this becomes an issue it
6 reads:

7 "Generally a party is not required to call any
8 particular person as a witness. However, where a party does
9 not testify, an inference may be drawn against that party;

10 In this case, Lazer Plunaj, a party Defendant, did
11 not testify. Therefore, you may, although you are not
12 required to, conclude that the testimony of the Lazer Plumaj
13 would not support the position of the Defendants on the
14 question of:

15 One, whether Lazer Plunaj was telling the truth
16 when he told New York City Police that he saw Gregory Scott
17 break a window with a hammer at the apartment building on
18 September 16, 2015;

19 Two, whether Lazer Plunaj provided information to
20 the other defendant sufficient to give them probable cause
21 to believe that Dr. Scott was guilty of criminal mischief in
22 the fourth degree by breaking a window with a hammer in the
23 apartment;

24 Three, whether Lazer Plumaj was acting in the scope
25 of his employment by Kosova Properties, Incorporated, when

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1 he told the police that Gregory Scott broke the window;

2 And four, whether the information Lazer Plunaj
3 provided to the other defendants demonstrated that the
4 prosecution against Mr. Scott was motivated by malus, or ill
5 will and not contradict the evidence offered by Dr. Scott on
6 those questions."

7 Okay. That is the objection.

8 The next one we have is P.J.I. 1:78, Stipulation
9 of Facts.

10 The next is P.J.I you have those edits 1:92,
11 General Instruction, Employee, Property, Interested Witness.
12 This is your request Mr. Cookson.

13 (Pausing.)

14 THE COURT: Okay. We'll come back to.

15 MR. COOKSON: 1:92.

16 THE COURT: Yes, that is the same one I was asking
17 about earlier.

18 (Pausing.)

19 MR. COOKSON: I guess the fact that the witness
20 Shpend Nezaj was is still employed by Kosova Properties,
21 Inc., and the testimony you have heard of his
22 relationship --

23 THE COURT: I'm sorry. The witness' name is who.

24 MR. COOKSON: Shpend Nezaj he's one of the
25 Defendants.

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1 THE COURT: I'm sorry. S-H-P-E-N-D N-E-Z-A-J.

2 MR. COOKSON: Yes.

3 MR. BASIL: Who we also call Joey.

4 THE COURT: The fact that the witness Shpend Nezaj
5 A/K/A, Joey --

6 MR. COOKSON: Fine.

7 MR. BASIL: That is good for the jury.

8 THE COURT: --was and still is employed by the
9 Plaintiff -- by the Defendant --

10 MR. COOKSON: Kosova Properties.

11 THE COURT: And the testimony you have heard of his
12 relationship with his employment may be considered by you in
13 deciding whether the testimony of --

14 MR. COOKSON: Shpend Nezaj.

15 THE COURT: --Shpend Nezaj is, in any way,
16 influenced by the employment relationship with --

17 MR. COOKSON: Kosova Properties.

18 THE COURT: That is your objection.

19 MR. BASIL: We have no objection to that, your
20 Honor.

21 THE COURT: All right.

22 Next one we have is P.J.I. 1:94, Use of Pre-Trial
23 Depositions;

24 Next we have 2:70, Proximate Cause General;

25 Next we have P.J.I. 2:12, Foreseeability in

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1 General;

2 Next we have False Arrest as provided to me;
3 Malicious Criminal Prosecution as provided to me; and the
4 parties have edited the charges and submitted;

5 And then we have Liability For the Conduct of
6 Another Employer Employee Willful Tort;

7 Then we have Liability of Conduct of Another
8 Negligence Supervision Hiring Or Retention of Employee;

9 Then we have Liability of the Conduct of Another
10 Employee/Employer Scope of Employment;

11 Then we have Damages in General, 2:277;

12 Then we have Damages by Counsel During Closing
13 Remarks 2:277(a);

14 Then we have Damages Punitive 2:278;

15 Then we have Damages Personal Injury Emotional
16 Distress and Physical Consequences Thereof, 2:284;

17 And then Conclusion, P.J.I. 1:30;

18 And then P.J.I. 1:31 Discharge of Alternate jurors.

19 MR. COOKSON: I would note my objection of punitive
20 damages being charged.

21 As I said in a submission, I don't object to the
22 language of the punitive damage charge submitted. I just
23 object to it being charged in this particular case.

24 THE COURT: And because --do you have a law, do you
25 have a reason?

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1 MR. COOKSON: I don't think the facts support the
2 punitive damages, Judge.

3 THE COURT: Okay.

4 Did you want to say something to that please?

5 MR. BASIL: Your Honor, we pled it, we believe that
6 the evidence supports it. So, the language is not in
7 dispute, we would like to have that punitive damage charge
8 read to the jury.

9 THE COURT: Yes. My ruling is that it is going to
10 go to the jury to decide whether or not punitive damages are
11 relevant and applicable. Thank you.

12 All right. That is the charge record.

13 Anything else we need to discuss before we
14 continue?

15 MR. BASIL: Not from the Plaintiff side.

16 THE COURT: All right. So, can we check on the
17 jury.

18 THE COURT OFFICER: There's two missing I'm giving
19 them.

20 THE COURT: Off the record.

21 (Off-the-record discussion held.)

22 THE COURT: Let's check in 10:05. Thank you.

23 (Recess taken.)

24 THE COURT: On the record.

25 THE COURT OFFICER: All rise. Jury entering.

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1 (Whereupon, the jury enters the courtroom and the
2 following is heard inside the hearing and presence of the
3 jury.)

4 THE COURT: Good morning. Welcome back. You could
5 all sit down.

6 (Jury complies.)

7 THE COURT: Thank you for coming back and serving,
8 it means a lot, it really does.

9 A JUROR: Happy birthday.

10 THE COURT: Thank you.

11 We'll continue where we left off. We could not
12 thank you enough, we really appreciate it.

13 (Witness resumes the witness stand.)

14 MR. COOKSON: Thank you, your Honor.

15 THE COURT: Yes.

16 CROSS-EXAMINATION

17 BY MR. COOKSON:

18 MR. COOKSON: Good morning everybody.

19 THE JURY: Good morning.

20 THE COURT: I remind you, you're still under oath
21 and to keep your voice up and listen to the question asked.

22 If you could answer yes or no, do so.

23 If you don't understand, say that and I will have
24 the question be rephrased.

25 If you don't know, say I don't know.

-Cross/G. Scott/by Mr. Cookson-

1 If you don't remember, say I don't remember,
2 there's a distinction between the two.

3 THE WITNESS: Yes.

4 CROSS-EXAMINATION

5 BY MR. COOKSON:

6 Q Good morning, Dr. Scott.

7 A Good morning.

8 Q It's been sometime since we've been altogether and I
9 wonder what you've been doing since then?

10 A Writing --

11 MR. BASIL: Objection, your Honor.

12 THE WITNESS: Let me tell them about my paper I'm
13 writing.

14 THE COURT: No, we'll pass on that.

15 BY MR. COOKSON:

16 Q Okay. Have you been talking about this case to anybody
17 then?

18 MR. BASIL: Objection, your Honor, relevance.

19 THE COURT: Rephrase the question.

20 BY MR. COOKSON:

21 Q Have you ever been posting signs on your door talking
22 about this trial?

23 A I have posted a report of what happened on my door,
24 yes, like a report.

25 Q Have you invited people to participate and take

-Cross/G. Scott/by Mr. Cookson-

1 photographs?

2 MR. BASIL: Objection, your Honor. This is not
3 relevant to the issues in this case, what happens nine years
4 later.

5 THE COURT: Thank you so much. Let's go in the
6 back and talk about that.

7 (Whereupon, a discussion was held off-the-record
8 between counsel and the Court.)

9 THE COURT: Back on the record.

10 You may continue counsel, question the witness
11 about something about the case.

12 BY MR. COOKSON:

13 Q Dr. Scott, you've been a tenant in this building for a
14 long time, correct?

15 A Yes.

16 Q And up until recent, before the arrest, you admitted
17 that you had a good working relationship with the landlord,
18 correct?

19 A That's a mixed bag.

20 A good relationship until March of 2015, the arrest
21 being September of 2015.

22 Q And you alluded to what you've referred to as a death
23 threat?

24 A Yes.

25 Q And in what manner was it a death threat?

-Cross/G. Scott/by Mr. Cookson-

1 A Joey Nezaj, sitting there, (indicating) told me that if
2 I started a tenants association quote, Lucky, his brother, as
3 big as him, and two others will come over and you will be gone,
4 and we have the keys to your apartment -- sorry-- he did not say
5 keys-- he said we could get in at any time unquote.

6 Q Did that ever happen?

7 A Did what happened?

8 Q Did they ever come into your apartment unannounced?
9 Did they every physically--

10 A Yes, they did.

11 Q When -- they broke into your apartment?

12 A They had the keys, so they didn't have to break in,
13 they just came in.

14 Q So you're saying that one of the defendants actually
15 entered your apartment?

16 A I don't know.

17 Q By using a key?

18 A I don't know. It was one of the landlord's staff or
19 Joey or Lucky, because they have the -- I was not home when they
20 got in. I just came home, opened my door, and there's a
21 Christmas card under the table in March of 2020 that had not
22 been there -- I've been home for two and-a-half months. So all
23 of a sudden I get home heres a Christmas card from the super
24 saying Happy Christmas, two and-a-half months later. And I
25 clean all the time and all of a sudden it is there. There was

-Cross/G. Scott/by Mr. Cookson-

1 an item missing. I called the police and the police said, well
2 did you see the person who did it?

3 I said no, I didn't.

4 So as a result I put in high security locks and they
5 cannot get in now because I have two high security locks and
6 they don't have a key anymore.

7 Q But from March until the date of your arrest, you were
8 never physically harmed or touched, were you?

9 A So we're going back to 2015 now?

10 Q From March of 2015, the until the day of your arrest?

11 A Right.

12 Q That is my question.

13 A He did not kill me, no.

14 Q That was not my question.

15 I said "physically harm" in any way or threaten
16 physically in any way?

17 A Not again, no.

18 Q Now, let's go to the arrest.

19 It is your testimony you became aware that the window
20 had been broken earlier during the day; is that correct?

21 A Yes.

22 Q And as the day progressed, nothing had been done about
23 it, correct?

24 A I don't know what you mean by that?

25 Q Did you make a complaint?

-Cross/G. Scott/by Mr. Cookson-

1 A I'm sorry?

2 Q Did you make a complaint?

3 A When?

4 Q On the day of your arrest.

5 After you saw a broken window, yourself, you know,
6 tenant association leader, right?

7 A Right.

8 Q Isn't it your obligation to alert management --

9 A No--

10 Q Or the landlord to -- let me finish my question.

11 A Oh.

12 Q --to something that needs addressing in the building?

13 A If I think it has not been addressed then, yes, it is
14 my ethical duty, yes.

15 Q But in this case, you didn't?

16 A There was no glass on the floor. There was no problem.
17 It was a hole in the window and they normally take care of
18 things.

19 If there had been glass on the floor, I would have said
20 something to them, but there was no glass on the floor.

21 Q So, when you went downstairs and had your encounter
22 with Lazer, it was just you and Lazer?

23 A Correct, initially.

24 Q And you admit that Hamdi and Joey were not there at
25 that time?

-Cross/G. Scott/by Mr. Cookson-

1 A Correct.

2 Q When the police came, they came up to your apartment
3 alone, correct?

4 A Again, mixed answer.

5 Q Lazer did not go upstairs with the cops standing next
6 to them when they knocked on your door and you opened it, was
7 he?

8 A He was hiding ten feet away in the stairway with Joey.
9 So both of them came up, the two of them stayed hidden in the
10 stairway, in the last 15 feet from the stairway to my apartment
11 the police went by themselves.

12 Q That is mere speculation on your part. You could not
13 see them from where you were?

14 A Oh, so they have magical abilities and they flew back
15 into the stairway as the door opened, what? It doesn't make
16 sense.

17 I opened the door there were two policeman. They
18 handcuffed me and then they called Joey and Lazer out who came
19 from the stairway 15 feet away.

20 Q And you testified that there was a younger policemen
21 and then a more experienced female officer, correct?

22 A Correct.

23 Q And she immediately placed you under arrest?

24 A Yes.

25 Q And, according, to you, she would not listen to

-Cross/G. Scott/by Mr. Cookson-

1 anything that you had to say in your own defense; is that
2 correct?

3 A She never gave me a chance.

4 Q And you were brought downstairs and put in a police
5 car; is that right?

6 A Correct, yes.

7 Q Did you see Lazer invoking the police to arrest you?
8 Did he say things to them to egg them on to arrest you?

9 A I was in my apartment, I had no idea what happened with
10 Joey and Lazer at that point and the police.

11 Q But from the time that you were arrested and were
12 brought downstairs --

13 A Right.

14 Q --did Lazer or anybody else continue talking to the
15 police about you and what you had done, and that you should be
16 arrested?

17 A Joey.

18 Q When did Joey say that in your presence?

19 A He and Lazer came from behind -- came out of the-- they
20 were hiding in the stairway. The police said, "come out now."
21 They both said, "he's the guy." Then I was handcuffed. I was
22 told to get my ID, nothing else. So I had no money, nothing
23 else, I had my ID. Then they took me down.

24 Now Joey and Lazer were-- I mean, I don't know where
25 they're standing, three feet away, ten feet away but as we got

-Cross/G. Scott/by Mr. Cookson-

1 into the police car Lazer went and sat on the stoop with another
2 of their handyman who had stalked my wife a number of times so I
3 knew --

4 MR. COOKSON: Objection unresponsive.

5 THE COURT: Overruled.

6 A Okay. Lazer went with another guy and sat on the
7 stoop, the apartment next-door, the building next-door, which is
8 about 35, 40 feet.

9 Joey was talking to the blonde police woman in the
10 lobby. The whole time I'm now in the police car with this
11 police officer, the young guy. I'm in handcuffs and he's asking
12 me what do you do? I teach in NYU. I'm having the conversation
13 with him while I'm waiting for my wife.

14 So Joey-- you're asking me where Joey was, whether he
15 was talking to them. Yes, he was talking to the blonde police
16 woman, the senior officer in the lobby about 15 feet 20 feet
17 from the cop.

18 Q You realize that Joey completely denies that he was
19 talking to the police officer who were present in the lobby when
20 you were arrested, you understand that, correct?

21 A Of course he did.

22 Q By your own admission you don't know, even if he was
23 talking to the police officer, what they were talking about?

24 A No, I did not hear their words.

25 Q Right. And Mostoso (sic) had told you, that you were

-Cross/G. Scott/by Mr. Cookson-

1 probably going down to Central Booking, correct? Chamber
2 Street?

3 A Yes.

4 Q But after the supposed conversation, they changed their
5 minds and they decided no, they would not take you down there
6 where you would have to go through the system; they would take
7 you over the 34th Precinct and given a DAT.

8 A Yes, Desk Appearance Ticket.

9 Q And what that means, you're spared the difficulties of
10 going down into Central Booking and through the arrangement
11 process and all of that. They just write you up, they hand you
12 a piece of paper and say go down to court on a certain day?

13 A That is misleading, very misleading.

14 You're missing that. It was my wife who came up and
15 told him she had seen the window broken at 8:30 in the morning
16 and that is why they changed their mind and took me to do the
17 DAT and three hours in jail. That is why.

18 Q By that time you were under arrest, Doctor?

19 A Yes, but --

20 Q They hadn't put you through the system?

21 A But there had been no decision to take me down to
22 Chambers Street --up, as opposed to 34th Precinct, which is all
23 the way up at the northern tip of Manhattan, until my wife said
24 how could he could broken the window an hour ago when I saw it
25 at 8:30 this morning going to work as a director an ad agency --

-Cross/G. Scott/by Mr. Cookson-

1 MR. COOKSON: Hearsay objection.

2 THE COURT: Overruled. Continue.

3 A --the two policemen were stunned when my wife said, how
4 could you be arresting him when I saw the window broken this
5 morning at 8:30 and they just told me I broke it an hour before.
6 He was so befuddled. When She said that to them I could see
7 their faces just going, "what the hell have we done?" But they
8 went off and talked by themselves about a minute.

9 They came back and said, we're not taking you down to
10 Chambers, but we are taking you to the 34th.

11 MR. COOKSON: Objection. Move to strike the
12 unresponsive portions.

13 THE COURT: Denied.

14 Next question.

15 BY MR. COOKSON:

16 Q Isn't it true, Doctor, that neither Joey nor Hamdi had
17 any participatory role in your getting arrested?

18 A False.

19 Q Do you remember testifying at a deposition on
20 March 13th, 2018, in this case?

21 A That was probably my deposition, March of 2018.

22 THE COURT: Sorry. We're going to take a break.

23 THE COURT OFFICER: All rise. Jury exiting.

24 (Whereupon, the jury exits the courtroom.)

25 (Recess taken.)

-Cross/G. Scott/by Mr. Cookson-

1 CROSS-EXAMINATION

2 BY MR. COOKSON:

3 (Whereupon, the jury enters the courtroom and the
4 following is heard in the presence and hearing of the jury.)

5 THE COURT: You may continue.

6 MR. COOKSON: Thank you.

7 BY MR. COOKSON:

8 THE COURT: Is there a page or number?

9 MR. COOKSON: I was waiting so that they could get
10 the transcript up.

11 THE COURT: Thank you so much.

12 BY MR. COOKSON:

13 Q The first excerpt will be on Page 87.

14 THE COURT: Line.

15 Q Line 15 through 25.

16 (Pausing.)

17 THE COURT: Thank you.

18 BY MR. COOKSON:

19 Q Doctor, do you remember being asked these questions and
20 giving these answers:

21 (Reading.)

22 "QUESTION: On September 16th, 2015, when you went
23 down to get the mail, did you see spend in the building at
24 that time?

25 "ANSWER: No.

-Cross/G. Scott/by Mr. Cookson-

1 "QUESTION: Did you see Shpend with Lazer when
2 Lazer came into the building?

3 "ANSWER: No.

4 "QUESTION: Do you know if Shpend was in the
5 middling on that occasion?

6 "ANSWER: I don't think so. I think he came after
7 to identify me."

8 Q Yes?

9 A Yes. And I standby the statements and answers.

10 Q Okay. Moving onto Page 103, starting at Line 25:

11 "QUESTION: --

12 THE COURT: Sorry could you repeat that.

13 MR. COOKSON: Page 103, Line 25.

14 THE COURT: Thank you.

15 MR. COOKSON: (Reading.)

16 "QUESTION: Was Hamdi involved personally in this
17 situation?

18 "ANSWER: Being physically there, no he was not
19 physically there.

20 "QUESTION: Do you have any proof or evidence that
21 he was involved with discussions between anybody with Lazer?

22 "ANSWER: I know he got a message on his machine
23 that morning.

24 "QUESTION: Concerning the false arrest?

25 "ANSWER: No, concerning they had to fix my fire

-Cross/G. Scott/by Mr. Cookson-

1 switch.

2 "QUESTION: Other than that and only specifically
3 gearing your attention specifically to the allegations of a
4 false arrest, was Hamdi Nezaj personally involved, to your
5 knowledge, do you have any proof of that?

6 "ANSWER: I have no proof of that, nor was he there
7 physically.

8 "QUESTION: At the time you testified that Joey or
9 Shpend, you call him Joey; is that correct?

10 "ANSWER: He goes by both names.

11 "QUESTION: He goes by Joey to some people and
12 Shpend to others, but he wasn't in the building at the time?

13 "ANSWER: Not to my knowledge, no.

14 "QUESTION: At the time that Lazer claimed you
15 broke the window, he was not in the building?

16 "ANSWER: At that time no, to my knowledge, no.

17 MR. COOKSON: Moving onto 105, Line 21: (Reading.)

18 "QUESTION: Do you have any proof or letters that
19 any other party, other than Lazer, was participatory of
20 accusing you have breaking the window that day?

21 "ANSWER: No."

22 Q Do you recall being asked those questions and giving
23 those answers?

24 A Yes, and I standby them. On certain assumptions about
25 what they mean, not how you're trying to represent them.

-Cross/G. Scott/by Mr. Cookson-

1 Q I asked if you remember answering those questions?

2 A Yes, I do.

3 Q And giving those answers?

4 A Yes, I do.

5 Q Page 113, Line 20: (Reading.)

6 "QUESTION: Do you know if Hamdi signed any
7 documents with respect to the criminal complaint?

8 "ANSWER: No, if you are talking about the
9 complaint.

10 "QUESTION: The criminal complaint?

11 "ANSWER: I think it was Lazer.

12 "QUESTION: Lazer?

13 "ANSWER: I think so. I would have to look at it.

14 "QUESTION: You don't know if anybody else signed
15 any of the documents with respect to the proceeding itself;
16 is that correct?

17 "ANSWER: No."

18 Q Again, do you remember being asked those questions and
19 giving those answers?

20 A Yes, I standby them.

21 (Pausing.)

22 THE COURT: Mr. Cookson, did you want to ask a
23 question?

24 BY MR. COOKSON:

25 Q Yes, I'm looking at something, your Honor?

-Cross/G. Scott/by Mr. Cookson-

1 THE COURT: Okay, well.

2 (Pausing.)

3 BY MR. COOKSON:

4 Q So, after you were arrested and issued the DAT, did you
5 have to make three court appearances; is that correct?

6 A Correct.

7 Q Your initial appearance and second appearance and they
8 offered you what is called an ACD?

9 A Correct.

10 Q Correct. And do you know what ACD?

11 A Adjournment in contemplation of dismissal, as I learned
12 at that point.

13 Q Right. That means your case would be adjourned for six
14 months and if there were no other issues, your case would be
15 dismissed, right?

16 A In effect if I plead guilty or was willing to plead
17 guilty, as I understood it.

18 Q Well, your Honor instructs the jury on the law, you
19 would not have to plead guilty.

20 THE COURT: This is not a Criminal Court case and I
21 will not be instructing it regarding what adjournment in
22 contemplating dismissal is and ramifications; so suffice it
23 to say, there are ramifications that's it.

24 Next.

25 BY MR. COOKSON:

-Cross/G. Scott/by Mr. Cookson-

1 Q And, ultimately, your case was dismissed on what they
2 call speedy trial grounds; is that correct?

3 A All I know is that they said 30/30, we concede. I have
4 no idea whether it's speedy trial.

5 Q Okay. The fact of the matter, your case was dismissed?

6 A Four months later or so, yes.

7 Q And you have no proof that subsequent to the day of
8 your arrest anybody pursued the prosecution of you by you --

9 THE COURT: Sustained. Rephrase.

10 BY MR. COOKSON:

11 Q Do you have any proof that Hamdi Nezaj or Shpend Nezaj
12 pursued the prosecution of you?

13 THE COURT: You're going to have to rephrase that
14 question. And this is me telling you to rephrase.

15 When someone is prosecuted, it is the prosecution
16 that has the burden to proving the case, so, rephrase.

17 BY MR. COOKSON:

18 Q Do you have any proof that either of those men
19 advocated for the prosecution or cooperated with the
20 prosecution?

21 A No.

22 Q Have the Defendants ever tried to evict you?

23 A You mean, formally or informally?

24 Q I mean, have they ever initiated eviction proceedings,
25 not what is in your mind about --

-Cross/G. Scott/by Mr. Cookson-

1 A You mean formally?

2 Q Yes.

3 A Thank you.

4 No.

5 Q Now, in terms of damages, you incurred an attorneys
6 fee, correct?

7 A Yes.

8 Q And how much was that?

9 A \$1,500.

10 Q Okay. You never went to a doctor to receive medical
11 attention?

12 A No.

13 Q No psychiatric treatment?

14 A No.

15 Q There was no physical trauma to you?

16 A Physical trauma, no. Ah, wrist hurting from the
17 handcuffs for a few days but other than that, no.

18 Q Okay. And in terms of your reputation within the
19 building, you attribute that to the fact that you were arrested
20 and that was it?

21 A Ah, yes, my reputation.

22 Q You don't think the attitude of the other tenants in
23 the building toward you since, could be unrelated to the arrest
24 and related more to yourself?

25 A I would have to speculate about that --

-Redirect/G. Scott/by Mr. Basil-

1 MR. BASIL: Objection.

2 THE COURT: Wait a minute.

3 Overruled. You may answer if you understand.

4 A I can't speculate about what other people thought. I
5 just know how they acted toward me after; whereas before they
6 had been very friendly, now they would not even say hello and
7 they would just walk away if I even came close to them.

8 Q Well, don't you antagonize the tenants; isn't that why
9 they walk away?

10 A Now, or September 16th, or when?

11 Q You're saying since the arrest the tenants'
12 relationship with you have changed?

13 A Some of them.

14 Q Okay. And I'm asking you, isn't that because you have
15 a representation for antagonizing those tenants?

16 A That is only according to Joey.

17 Q So you deny it?

18 A I deny.

19 MR. COOKSON: No further questions.

20 RE-DIRECT EXAMINATION

21 BY MR. BASIL:

22 Q Going back to the date of your arrest, how long have
23 you been in the building at that point in time?

24 A I moved in a couple months before I signed the lease
25 June, 1999, so 17 years, approximately.

-Redirect/G. Scott/by Mr. Basil-

1 Q And from your appearance, who was in charge of the
2 building?

3 A Well, it was Kosova Properties. There were a few
4 people. There was a super always. And, in fact, until the
5 beginning of that year only a super took care of the whole
6 building.

7 Then Joey Nezaj moved in -- sorry, I pronounce it as
8 Nezaj. Because that is how they tell me to pronounce it, Nezaj.
9 When you're reading English it seems that way. They will say in
10 Albanian it is pronounced as an I at the end. That is because
11 language is very important to me, I have to try to correct that.

12 Okay. So I say Nezaj, you guys say Nezaj, okay.

13 Q We're dealing with your quirks?

14 A Right.

15 Could you repeat the question, sorry?

16 Q Sure.

17 What I am asking is: Who were the individuals from
18 your appearance --

19 A Right.

20 Q --who had responsibility for --

21 A --for the building.

22 Q --for the decisions made in the building?

23 A So they had one super always until around January,
24 2015, when Joey moved in with his wife to apartment 1-D, which
25 is right next to the mailbox. At that point you had two people

-Redirect/G. Scott/by Mr. Basil-

1 now, the super, his boss, and then on the placard which is above
2 the mailbox they have what is called the operating agent. That
3 was his brother listed. Hamdi, the father would sometimes come
4 over and do things.

5 So, you had three people there physically usually that
6 I would see on and off all the time. The brother only came over
7 once or twice in, you know, I don't know once or twice a year
8 maybe I would see him like that.

9 So, four people, three all the time starting January,
10 2015.

11 Q Okay. And you used the term "boss" in relationship to
12 the super.

13 From your perspective, did Lazer, the super, have one
14 or more bosses?

15 A Yes.

16 Q And who were Lazer's bosses in September of 2015?

17 A Both Joey living there and then the big boss, Hamdi.

18 MR. BASIL: Thank you. No more questions.

19 MR. COOKSON: Nothing from me, your Honor.

20 THE COURT: Thank you.

21 THE WITNESS: Thank you.

22 (Witness exits.)

23 THE COURT: Plaintiff.

24 MR. BASIL: Plaintiff has no more witnesses, we
25 rest.

-Proceedings-

1 THE COURT: Thank you.

2 Mr. Cookson?

3 MR. COOKSON: I would like to make an application.

4 THE COURT: Do you need the jury to be present?

5 MR. COOKSON: No.

6 THE COURT: Should the jury go back to their room
7 for a minute?

8 MR. COOKSON: Yes.

9 THE COURT: We'll see you shortly.

10 (Jury exits.)

11 (The following heard outside the presence and
12 hearing of the jury.)

13 THE COURT: All right. You could go.

14 MR. COOKSON: I'm getting close to the mic.

15 THE COURT: Thank you.

16 MR. COOKSON: Your Honor, my application is for
17 dismissal of the action for failure to make out a prima
18 facie case against any of the Defendants under any of the
19 three causes of action in this case.

20 The evidence is undisputed that it was Lazer who
21 called the police, not Hamdi or Joey; and that the police
22 acted independently in arresting Dr. Scott.

23 "To be held liable for a false arrest, a civilian
24 defendant must have affirmatively induced the officer to
25 act, such as a taking an active part in the arrest and

-Proceedings-

1 procuring it to be made, or showing active officious and
2 undo zeal, to the point where the officer is not acting of
3 his or her own volition."

4 You want me to cite the case, Judge?

5 THE COURT: No, not necessary, but you can for the
6 record.

7 MR. COOKSON: It is Hughes versus Vento, 226 AD2d
8 753, 754, 755, Second Department, 2024.

9 There's no evidence that Joey affirmatively induced
10 the officer to act, certainly no evidence Hamdi did since he
11 was never in the building that day.

12 There's been no showing that Kosova Properties
13 induced Lazer to call the police or played any role in his
14 decision to do so and that his decision was not anything but
15 his own volitional act not incidental to the business of
16 Kosova Properties;

17 And that would go for Shpend as well since he had
18 nothing to do with causing the arrest to happen. There's
19 been no evidence of that.

20 With respect to malicious prosecution. The only
21 evidence in the record, with respect to that, came from
22 Hamdi and Joey that they never participated or advocated for
23 prosecution, never were contacted by the DA, never tried to
24 contact the DA, and did not, in any way, shape or form
25 advance this prosecution and, certainly, they did not do so

-Proceedings-

1 maliciously;

2 On those grounds I think that the malicious
3 prosecution charge should also be dismissed.

4 With respect --

5 THE COURT: You used to be a prosecutor?

6 MR. COOKSON: I did.

7 THE COURT: Yes. Just to be clear, as a former
8 prosecutor, those questions that you had just now, it is
9 totally misrepresents who has the burden of bringing the
10 charges. And you also know as a former prosecutor that
11 there's a complaining witness, someone served as a informer
12 on that criminal complaint. So asking a lay person in this
13 case, do you have proof what the evidence, is it is just
14 misrepresenting.

15 I'm a lay person Judge, I'm also former prosecutor,
16 I find that argument in ultimately and completely
17 mischaracterizes the way the law is written, but continue.

18 MR. COOKSON: But in this case, no complaining
19 witness ever signed a corroborating affidavit. It was the
20 police--

21 THE COURT: We don't need the complaining witness
22 at the time of the arrest to have signed the cooperating
23 affidavit, you know that. You know that the police can't
24 arrest someone without a cooperating affidavit.

25 MR. COOKSON: I'm speaking in context of malicious

-Proceedings-

1 prosecution.

2 THE COURT: What I am saying, you're relying on
3 your questioning of this lay person Plaintiff regarding
4 police actions, which he has no basis to speak upon, except
5 as a lay person. Which means I'm not buying any of your
6 arguments that you're making right now to suggest that
7 because Lazer, as the un-signing cooperating or complaining
8 witness, that that is somehow affects the level of evidence
9 that could be used in this civil action.

10 We have other charges. And you can't find this
11 individual Lazer working in conjunction with his bosses,
12 which is why we have these charges, that we want to avoid
13 over extensively, negative hiring, supervision. So the jury
14 has a lot of information where they could decide that your
15 defendants are guilty or not guilty it. Could go either
16 way.

17 I cannot grant your dismissal at this time.

18 I will allow Plaintiff to speak it. It is
19 premature. There's enough evidence that the jury can decide
20 against you and for you and I'm not putting my hand on that
21 scale. It is not what I'm going to do.

22 If you have additional arguments you want to make
23 for this application, please continue to do so.

24 MR. COOKSON: The only argument I had left was the
25 negligent hiring.

-Proceedings-

1 In that instance, uhm, the Plaintiff has to
2 demonstrate that the employer knew or should have known of
3 the employees' propensity for conduct; in this case I
4 presume lying by showing a history of that. Which they did
5 not do.

6 They have not shown that this was anything but an
7 independent decision by this employer, not that he had a
8 propensity to do this. He had never had anybody arrested,
9 never threatened anybody to be arrested. You know, nothing
10 like this had ever happened. So the employer would not be
11 on notice of some propensity to do this;

12 So I would say that is not grounds for negligent
13 hiring.

14 THE COURT: All right. Plaintiff.

15 MR. BASIL: Since you've already ruled on
16 everything except for negligent hiring, I will limit my
17 comments --

18 THE COURT: You don't have to. You could make your
19 full record.

20 MR. BASIL: I will start negligent hiring because
21 it was in my mind.

22 We had evidence from the Defendant Hamdi about the
23 hiring process. He never checked anything, he didn't do a
24 background check, he didn't ask Lazer about his experience,
25 it was total negligent. The fact that there was no specific

-Proceedings-

1 question about lying or not, I don't think is dispositive
2 because the jury could decide that this series of negligent
3 acts, which also included no records. There's no records of
4 the interviews, there are no records of anything that Lazer
5 did. They can conclude that there was a negligent hiring.

6 As far as the other two counts. As your Honor
7 stated --first of all, there's nobody who has testified that
8 Dr. Scott broke the window. Every witness is just the
9 opposite, and including Dr. Noyes who has no reason to favor
10 one side or the other, if anything he would favor the
11 landlord.

12 Two, that Mr. Cookson would like the Court and the
13 jury to conclude that Lazer, on his own, decided to make a
14 false police report. And so, that just takes everything out
15 of context.

16 We just heard that he had two bosses. The two
17 bosses had every incentive to try to get my somewhat trouble
18 making client out of the building. And the jury should be
19 able to conclude that this false arrest effort was not out
20 of the mind of Lazer. Lazer had no reason to want Mr. Scott
21 out of the building. The jury can conclude very easily the
22 parties who did want him out, Hamdi, Joey, Kosova Properties
23 dreamed up this scheme and cooperated with Lazer or directed
24 Lazer;

25 So I don't believe that a directed verdict is

-Proceedings-

1 appropriate at this point on any of the counts.

2 Thank you.

3 THE COURT: Thank you. So I also agree and this
4 case will be going to the jury.

5 Is your witness ready?

6 MR. COOKSON: May I have a few minutes to talk --

7 THE COURT: Who is your witness?

8 MR. COOKSON: Probably recalling Mr. Nezaj.

9 THE COURT: When you say few seconds.

10 MR. COOKSON: No, a few minutes.

11 THE COURT: How long?

12 MR. COOKSON: I don't know, five, 10.

13 THE COURT: Okay. So, it is 11:15. You want to
14 come back at 11:25?

15 MR. COOKSON: Sure.

16 THE COURT: All right. Good.

17 MR. COOKSON: If I chose not to call him I will
18 simply rest and we could move on.

19 THE COURT: Right.

20 In terms of that, I'm not giving anyone more than
21 two hours to make their summations. I don't know how long
22 you want to take, nobody is going beyond two hours.

23 MR. COOKSON: Okay.

24 THE COURT: Great. Thanks.

25 (Whereupon, there is a recess taken.)

-Proceedings-

1 THE COURT: All right. What are we doing?

2 MR. COOKSON: We're going to rest.

3 THE COURT: Great. We're going to start closing.

4 Can you all work through lunch? Officer, you still
5 get an hour -- off the record.

6 (Whereupon, a discussion was held off-the-record.)

7 THE COURT: How long is your summation?

8 MR. BASIL: Mine will be longer than an hour.

9 THE COURT: Great.

10 MR. COOKSON: I'm not going to be anywhere near an
11 hour. I will probably be closer to 20 minutes or half hour.

12 THE COURT: Really.

13 MR. COOKSON: My question is that if could I have a
14 few minutes before I do summation?

15 THE COURT: I'm sorry, what was the few minutes
16 before? What were you doing?

17 MR. COOKSON: My few minutes was to decide whether
18 to rest or not.

19 THE COURT: You're saying so you need more time.
20 How much time do you need now.

21 MR. COOKSON: Maybe five minutes, maybe ten
22 minutes.

23 THE COURT: Five minutes.

24 MR. COOKSON: I would like maybe ten.

25 THE COURT: All right. You need another ten.

-Summations/Defense-

1 11:35.

2 MR. COOKSON: Sure.

3 THE COURT: 11:35. Good. We'll take another
4 break.

5 (Recess taken.)

6 THE COURT OFFICER: All rise. Jury entering.

7 (Whereupon, the jury enters the courtroom and the
8 following is heard inside the hearing and presence of the
9 jury.)

10 THE COURT: Thank you for your patience Ladies and
11 Gentlemen.

12 Mr. Cookson.

13 MR. COOKSON: Defense rests.

14 THE COURT: Thank you so much. At this time we
15 will start summations.

16 MR. COOKSON: Thank you, your Honor.

17 BY MR. COOKSON:

18 Good afternoon everybody. Thank you for your
19 participation in this case.

20 May it please the Court, counsel, and Dr. Scott:

21 It has been an interesting trial in many ways,
22 having started so long ago and having had such a charge
23 break. It is also an unusual set of facts, unusual set of
24 accusations;

25 But it is our contention that the claims made

-Summations/Defense-

1 against my clients have no merit and are really based on
2 speculation and the inner workings of Dr. Scott's mind.

3 Objectively, Dr. Scott lived in this building for a
4 long time. By all accounts the Defendants are good
5 landlords and good relationships exist throughout this
6 building. You heard both of my clients testify to long
7 running relationships, long running tendencies. So, this is
8 not a building run by terrorists. It is a good building.

9 Dr. Scott, for whatever his reasons, decided he
10 wanted to become an advocate for tenants. And you heard
11 evidence of various complaints that he would make and you
12 also heard that those complaints would be addressed and were
13 addressed.

14 There's no evidence elicited from my clients that
15 they had any ill will towards Dr. Scott, personally, or
16 wanted to see him harmed in any way, despite his claim of a
17 death threat, which I contend is completely within his mind.

18 I think the tenants -- or I submit that the tenants
19 association's argument is more of a smokescreen than
20 anything.

21 We go to the arrest, that is why we're here; it was
22 a false arrest and that Hamdi and Joey were participants in
23 it. The objective evidence does not support that claim at
24 all.

25 By Dr. Scott's admission, Hamdi was not there that

1 day at all and had nothing to do with it, in no sense of the
2 word.

3 Joey testified he only got there pretty much after
4 it was over. The police car was there, he said he went to
5 the basement, came into the apartment, and by the time of
6 when he came out after visiting with small children and so
7 forth, they were gone, he denied speaking to police officer;

8 And where was the evidence Dr. Scott claims
9 exonerated him? The wife, where is the wife? She wasn't
10 brought into court;

11 Where are the police officers who could testify
12 that they were egged on by my clients to arrest this man;

13 They were not produced.

14 By Dr. Scott's own admission in his deposition, my
15 clients played no participatory role in getting him
16 arrested. That is what he said as he tried to twist it, as
17 he did with many many things throughout the course of the
18 trial. If you look at it objectively, it shows that we had
19 nothing to do with the initial arrest, or the subsequent
20 prosecution. Neither of my clients forced a prosecution or
21 encouraged prosecution in any way, showed no interest in
22 pursuing it and really didn't know what happened here. So,
23 ultimately, the case was dismissed and that was the end of
24 the criminal case.

25 So, I'll talk about negligent hiring a little bit.

-Summations/Defense-

1 There's been no showing that Lazer had any propensity to do
2 something like get somebody falsely arrested or lie about
3 them to get into trouble, or anything like that. So whether
4 how he was hired, what his qualifications were, and all of
5 that sort of stuff really become irrelevant. There were no
6 real complaints about his work. So even if he was, you
7 know, the best or the worst, what is at issue in this trial
8 is whether he had a propensity to do something like get
9 somebody falsely arrested. And there's no evidence in this
10 case that he ever exhibited or showed any sign that he had,
11 would have had a propensity to do this. So these defendants
12 of mine had no notice if he could do something like that.

13 So, the negligent hiring issue is also a smoke
14 screen for that reason.

15 And, finally, so, just to sum up. We are not
16 involved in the arrest, we aren't involved in the
17 prosecution, we don't encourage the prosecution, we didn't
18 know that Lazer had any propensity to do anything, like get
19 somebody falsely arrested, if you believe him-- if you
20 believe him that that is what happened. Unfortunately Lazer
21 is not around, and so neither of my clients knew where he
22 was and he was not available. So you're basically basing
23 what you believe happened on Dr. Scott.

24 Finally, even if you find one or more causes of
25 action, what are the damages?

-Summations/Plaintiff-

1 He doesn't have any damages. \$1,500 lawyer he
2 paid. No medical treatment, no psychological treatment,
3 nothing out-of-pocket, there really are no damages;

4 So at the end of the day, I submit that your
5 findings should be for the Defendants and I appreciate your
6 time.

7 Thank you.

8 THE COURT: Plaintiff.

9 MR. BASIL: Thank you, your Honor.

10 Well after all of that.

11 THE COURT: Speak into the microphone.

12 MR. BASIL: As Mr. Cookson did, we want to thank
13 you for this extraordinary effort. This story has been
14 through nobody ever seen before. Your sacrifices in your
15 personal life, you're sitting here silent listening to the
16 evidence and you are, in effect, creating a trial in which
17 justice can be done for all concerned. This is a matter of
18 justice and that is what we seek on behalf of Dr. Scott.

19 In a short time you're going to take this time to
20 the jury room and you're going to begin your deliberations.
21 And the purpose of those deliberations is to come to a
22 series of fair, just, and equitable decisions about what you
23 just heard and observed today, and way back there in
24 January.

25 Now, before I go into detail about the facts --and

-Summations/Plaintiff-

1 there will be a lot of detail -- it is important to remember
2 that most of the evidence in this case was introduced
3 through testimony of witnesses in the witness box.

4 Sometimes, as here, the witnesses testify in conflicting
5 ways where they can't both be true. This is a key-- one of
6 the key roles for this jury, if there's a conflict in the
7 stories that you hear from the stand, all under oath, that
8 it is your job to figure it out. And we have every
9 confidence. Because we've noticed that you've paid rapt
10 attention to this and we really appreciate it.

11 Now, in my closing statement here, I'm not seeking
12 to communicate my opinions or conclusions. My opinions are
13 irrelevant. My conclusions are irrelevant. And I am not
14 here to impose them upon you and that would be improper if I
15 tried to do it.

16 I'm going to present the evidence that I believe
17 will allow you to come to this fair and just verdict and
18 you'll have your own conclusions and opinions. And, of
19 course, we hope that they're favorable to Dr. Scott.

20 Now, it is a very interesting exercise. We're here
21 because Dr. Scott seeks damages. He seeks damages in the
22 form of a monetary award, dollars and cents. And it is
23 based upon the evidence of the emotional distress he went
24 through-- yeah, the \$1,500 he needs that -- but it is up to
25 you, the jury, to translate these, what I will suggest are

-Summations/Plaintiff-

1 terrible acts of the Defendants, as you have heard the case.
2 And those terrible acts need to be translated if you believe
3 they happened, believe they happened with the way it fits
4 with the jury instructions that you come to a number. And
5 that will be one of the more interesting back and fourths in
6 the jury room, I could assure you;

7 But I'm confident again because of the rapt
8 attention you folks have paid that you'll be able to do
9 that.

10 Now, Dr. Scott, as you heard, he's an academic.
11 His life work is one of intellectual expiration and
12 discovery. What happens, the Defendants took him out that
13 have world and forced him to live in a criminal world. It
14 was complete with handcuffs, arrest, fingerprinting, mug
15 shots, incarceration, pressures to plead guilty to a crime
16 he did not commit.

17 He saw his wife at the time of his arrest in great
18 distress because his wife, if she's to be believed,
19 understood that he could not have broken that window because
20 she saw it hours before Lazer or anybody else made a claim
21 that Dr. Scott had just broken the window. So this is all
22 part of the stress, emotional episode that Dr. Scott went
23 through. I'll get into more detail because we have the
24 testimony for you and we'll put it up on the screen. It is
25 going to be a little hard to remember what happened on

-Summations/Plaintiff-

1 January 29th from the stand. So we're going to do
2 everything we can to help you.

3 I'll speak more about the emotional stress damages
4 later;

5 But there's one other type of damages that you're
6 going to be asked to consider. That is something called
7 punitive damages.

8 Punitive damages have nothing much to do with the
9 damages that Dr. Scott suffered.

10 Punitive damages, as the name implies is
11 punishment. If you believe that the conduct of one or more
12 of these defendants was particularly-- and we use the word
13 egregious-- particularly egregious, you have the option of
14 designating in your jury sheet that you believe that
15 punishment is proper. There won't be a number there but
16 you'll sort of up or down like the Roman Gladiators.
17 Something will happen later on that. But for now we're
18 going to ask you to consider whether punitive damages are
19 appropriate against Kosova, Hamdi, Joey or Lazer, for that
20 matter.

21 Now going back to the credibility issue, which is a
22 key component of your job here. Credibility means telling
23 the truth, or not telling the truth. Of course. And it is
24 up to you alone to figure that out. One way you could do
25 it, we would suggest, is to consider does it make sense in

1 the context of everything else going on?

2 So, for example, there's a dispute about whether
3 Joey was in the building at the time of the arrest and we'll
4 go into the details. There was a long description by Dr.
5 Scott about that day and where Joey was and what he did.
6 And you would have to evaluate that credibility on whether
7 that makes sense in the context of a whole false arrest
8 scenario; was it really just Lazer to colloquialisms, they
9 want to throw Lazer under the bus, right. Lazer did it,
10 nobody knew anything about it, and so let all these
11 defendants off the hook and disbelieve Dr. Scott when he
12 tells you Joey was there and he was involved;

13 Credibility, it is not just looking at the person
14 saying can I tell he's lying because he's shaking or
15 something. It is in the context and I'm going to try to
16 help you in this closing statement put those key issues into
17 context.

18 Now, you heard Mr. Cookson talk about the hiring of
19 the Lazer. We contend that the hiring and subsequent
20 managing of Lazer was negligent. Why do we say that?

21 Because the key witness for those facts was Hamdi,
22 as we called him as a witness, he's on the other side but we
23 called Hamdi as a witness. He admitted on the stand that he
24 committed-- I will not use the legal term -- that he lied
25 under oath in his deposition or else he lied under oath on

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1 the stand; but whatever it is, he had to have lied one way
2 or the other.

3 David, could you put up Page 11 of Day 2.

4 (Shown on the screen.)

5 MR. BASIL: You may have to trust me that I am
6 reading that correctly. You are a lot younger than me.

7 Maybe we could make it bigger.

8 We start Line 9:

9 So, this is the examination by Mr. Cohen of Hamdi:

10 "Where did you get Lazer?" I don't know if you
11 remember, I gave an opening statement where I told you that
12 we were going to present evidence that Hamdi met Lazer in a
13 strip club, all right, that would make it memorable. So Mr.
14 Cohen has investigated his testimony: (Reading.)

15 "Where did you meet Lazer?"

16 "I met Lazer at a hardware store, Broadway, 182nd
17 Street.

18 "MR. COHEN: Did you say you met him in a hardware
19 store?

20 "Hardware store.

21 "MR. COHEN: In fact, did you meet him in a bar?

22 "Did I meet him where?

23 "At a bar while you were drinking.

24 "No, I said that at the time because the attorney
25 kept annoying me with questions; how did I meet him? Where

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1 did meet him? Why did I meet him?

2 "You're talking about in your deposition?

3 "Yeah.

4 "Do you recall what your answer was in your
5 deposition to that question?

6 I remember that I said, yes."

7 Meaning yes, I met him in a bar or strip club.

8 Credibility. Credibility what is the credibility
9 of this witness? That a lawyer happens to be annoying, he
10 lies, uhm, and you should that into account.

11 Because, again, this big denial is the core of his
12 defense is that Hamdi knew nothing and had no role in this
13 false arrest.

14 So, now there's another way to determine if a
15 witness is testifying truthfully.

16 In this case you should look to a witness who has
17 no dog in the fight, if you will. A witness who has no
18 interest in the outcome. And that was only one such
19 witness, that was Dr. Noyes, N-O-Y-E-S -- who I call doctor
20 no, yes, so that I remember how to spell his name and he
21 doesn't take offense -- I think you should give extra points
22 to Dr. Noyes in credibility because, again, he's just here
23 testifying, he was subpoenaed, he's not --at least as it
24 would appear --on anybody's side.

25 So, Dr. Noyes testified that he was actually

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1 friendly with Scott and he had a good relationship with
2 hammer and Shpend. He had been in the building for many
3 years.

4 And I don't believe in the cross-examination of Mr.
5 Noyes that any dents were put in his credibility. I thought
6 that as he presented himself that you would find him
7 credibly and I hope that you do.

8 Now Dr. Noyes testified very interestingly that he
9 didn't want to publicly join the tenants association. He
10 wanted to stay in the back ground. And that is an important
11 for you to consider in the issue of whether Hamdi and Joey
12 were involved in this false arrest.

13 So, Mr. Cohen, if you could put Day 1, Page 12.

14 MR. COOKSON: Your Honor, excuse me, I hate to
15 object in the middle of a summation. Could we have a very
16 quick side-bar?

17 (Whereupon, a bench conference took place between
18 counsel and the Court.)

19 THE COURT: Thank you. You may continue.

20 MR. BASIL: Thank you, your Honor.

21 So, when Dr. Noyes was asked about joining a
22 tenants association and he said he didn't want to do so
23 publicly start at Line 12: (Reading.)

24 "QUESTION: Why did you not publically join the
25 tenants association? What was the reason for that?

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1 "ANSWER: Well, fear of retaliation."

2 Now, remember that there was testimony from Joey
3 that he didn't care about a tenants association, it was no
4 big deal, it wasn't affecting him. And Hamdi, the
5 representation is he wasn't involved, he didn't care;

6 But Dr. Noyes who was concerned that if he publicly
7 joined the tenants association that he was going to be
8 subject to retaliation. And he explained: (Reading.)

9 "QUESTION: When you say retaliation, what do you
10 mean?

11 "ANSWER: Well, you know, when you have -- when
12 you're not your own landlord, you're dependant upon somebody
13 else for your home. And they provide an excellent home, I
14 have to say. And so I just didn't want any -- I didn't want
15 any friction there between Hamdi and Joey."

16 So, Dr. Noyes was concerned about Hamdi and Joey
17 and what they might do if they knew Dr. Noyes was part of
18 the tenants association and really had anything to do with
19 Dr. Scott.

20 So, I now want to turn to the actual breaking of
21 the window.

22 Is there evidence in the case that Dr. Scott a
23 professor of Ancient Greek Philosophy suddenly in September
24 of 2005, I don't know in the 60's, becomes a window breaking
25 vandal?

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1 There's nobody -- well, where is the witness that
2 says, I saw Dr. Scott break the window? Or where is the
3 witness that had anything to convince a jury that Dr. Scott
4 had actually broken the window.

5 I think it should be easy for you to conclude that
6 at least as part of that case, that Dr. Scott did not break
7 the window. Dr. Scott, of course, testified that he didn't
8 break the window. But there was other testimony about the
9 window, as you know, and it was reemphasized here.

10 So, I'll skip over where Dr. Scott said he didn't
11 break the window. I don't think you needed to be reminded
12 of that.

13 Let's go to Day, 2 Page 25.

14 (Shown.)

15 So, Joey was on the stand. And he's one of two
16 defendants that testified and he had an opportunity to tell
17 you that he was aware that Dr. Scott had broken the window
18 but he couldn't do it. And here is the disassembling, if
19 you will. You may concluded what happened when he was
20 asked.

21 So this is the first question out of the box after
22 "Good afternoon."

23 (Reading.)

24 "QUESTION: Did Gregory Scott break a window at 83
25 Park Terrace in the evening of September 16, 2005?"

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1 Simple question.

2 "ANSWER: It was alleged that he did.

3 Well, that is not an answer. Me, following up, it
4 was alleged:

5 "QUESTION: Well, I'm asking you your knowledge.
6 Do you have knowledge one way or another if Dr. Scott broke
7 a window?

8 "ANSWER: It was alleged by Lazer."

9 I'm not just getting answer.

10 "QUESTION: So, do you have personal knowledge one
11 way or another whether Lazer's statement or allegation was
12 true?

13 "ANSWER: Aside from what he said, that something
14 you would have to ask him."

15 So given the opportunity to come in here and
16 testify that, yes, Dr. Scott broke the window, it didn't
17 happen, it didn't happen and I believe you would be
18 justified in concluding it, the testimony didn't happen
19 because it wasn't true.

20 Now, Dr. Noyes testimony. Now let's go to Page 6
21 of Dr. Noyes testimony.

22 (Shown.)

23 So you will recall that the-- or you wouldn't, it
24 will help you later that the police report stated that the
25 window was broken just before 5:00 in the evening by Dr.

1 Scott.

2 So this is Dr. Noyes. And Dr. Noyes is reporting a
3 conversation he had with Joey: (Reading.)

4 "So you testified that you told Joey several times
5 that you saw the window was broken 11:30 in the morning.
6 How many times did you tell him that?

7 "Well, so, the day after Dr. Scott's arrest I was
8 walking. Well, I ran into my next-door neighbor, Michael
9 Bliss, who was in 3D. And he said, yeah, did you hear about
10 what happened? And so we were -- so we were talking about
11 it. And as I was --was walking to the subway, Michael
12 walked along with me and we happened to run into Joey."

13 Now serendipity becomes very important for this
14 case.

15 "He was in front of the Twin Donut" (sic) blah,
16 blah, blah. And Michael said to Joey, "hey, what happened?
17 And Dr. Noyes answered: So, at that point in time Joey told
18 us his version of events."

19 Next page.

20 "He said, yeah, you know, he said -- Greg and
21 Lazer.

22 "THE COURT: Who is he?

23 "THE WITNESS: Joey."

24 Okay. It is established that Dr. Noyes is talking
25 about Joey.

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1 "Dr. Noyes, when you, as you put it, when you ran
2 into Joey outside the donut shop" -- next page, Page 8:

3 "When you ran into Joey near the donut shop, did he
4 tell you anything about the broken window?"

5 This is, you remember this is the next day.

6 Yes.

7 What did he tell you?

8 He said Gregory Scott did it. Which is exactly
9 what he couldn't say under oath. He said it was an
10 allegation.

11 Did he say-- did he say anything more than that?

12 He, meaning Joey, said Greg Scott did it around
13 7:00 p.m.

14 Well, what it a minute the police report says
15 5:00 p.m. and other evidence is much earlier in the day.

16 He came-- "he" meaning Dr. Scott came downstairs,
17 had a hammer and broke it in front of him.

18 In front of him, Joey and Lazer around 7:00.

19 This is what Dr. Noyes is telling us from the
20 witness stand that Joey said to him the next day.

21 "QUESTION: Sir, if I understand your testimony,
22 Joey told you that he saw Dr. Scott break the window?

23 "ANSWER: Yes."

24 Wait a minute. You heard from Mr. Cookson that
25 Joey wasn't there. Joey wasn't at the apartment when the

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1 window was broken or during the arrest.

2 Well, wait a minute here is what, if you believe
3 Dr. Noyes. Joey is telling Dr. Noyes the very next day, not
4 seven years later, or whenever it is.

5 "So, if I understand your testimony, Joey told you
6 that he saw Dr. Scott break the window?

7 "Yes.

8 "You said earlier in your testimony you spoke to
9 Joey several times regarding the breaking of the window.

10 So, what you just described, is that the first
11 time?

12 "That was the first time. And I told him I had
13 seen the window broken. So there is alternative side
14 parking on that day and so I had to move my car around
15 11:30. So on my way down I saw the window and that was the
16 first time on the way to my car."

17 So, Dr. Noyes observed the window at 11:30 in the
18 morning. And if you have perfect recall, you would have
19 remember that. But I'm taking the assumption we all need to
20 be refreshed.

21 Dr. Noyes continues: Then I saw again when I went
22 out and moved my --Page 9.

23 (Shown.)

24 --my car back to the other side. And then I went
25 to work around 2:30. And that's when I saw it the third

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1 time. And I told him -- that would be Joey -- that the day
2 after in front of the donut shop I said I saw the window
3 these three times earlier in the day."

4 Now, this notion that Joey and Hamdi are not
5 involved in this false arrest needs to be compared with what
6 happened here, if you believe Dr. Noyes.

7 In other words, Dr. Noyes the very next day is
8 telling Joey, no, Dr. Scott could not have broken the window
9 because I saw it three times before it was supposed to be.

10 And so, you need to put that in your basket of
11 consideration when you're considering one, what is the
12 credibility of witnesses; two, what actually happened that
13 day?

14 Did Dr. Scott really in front of Lazer pull out a
15 hammer and break a window right in his face and go up to his
16 apartment? I don't know. I don't know what happened after
17 that.

18 But anyhow, you have the evidence before you to
19 draw a conclusion that Dr. Noyes is accurately testifying
20 and that Joey was fully informed about the falseness of this
21 arrest the next day.

22 David, I need Page 2 of Scott -- sorry Page 40
23 (shown.)

24 Now there's another witness who testified
25 indirectly that it could not have been Dr. Scott that broke

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1 the window. That was Page 40 of Dr. Scott's testimony.

2 (Shown.)

3 So the notion that the story either in the police
4 report that around 5:00 Lazer saw Dr. Scott break the
5 window, or whatever other iteration of that story was made
6 was also contradicted by Scott's wife.

7 And if you look here, this is Dr. Scott reporting
8 what he wife didn't say:

9 What do you recall your wife saying to the police
10 when she was near the police car and you were handcuffed?

11 She was shocked when they said he broke a window.
12 I think that they said with a hammer. Then at that point,
13 and she said, because they had just an hour before they
14 actually gave a time, whereas when the police woman
15 originally arrested me at my door, all she said was you
16 broke the window.

17 Going back to your wife and then because they said
18 to her the last hour, he broke the window, how can that be?

19 I saw it broken when I left for work in the
20 morning. Which was around 8:00 a.m.

21 So now we have another witness who says that window
22 is broken at eight in the morning. Dr. Noyes saw it at 11,
23 and yet the Defendants want you to believe that Dr. Scott
24 broke it at 4:30, 5:30, 6, or whatever time that was. So I
25 would ask you to look at that evidence and make the

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1 conclusion that I think we all understand is correct.

2 So Dr. Scott also testified about the interaction
3 with Dr. Noyes when you were here back in January. And I
4 want to go over that testimony with you also, which is on
5 Page 27 of Dr. Scott --

6 (Shown.)

7 --on the stand before you back in January. This
8 was a subject of examination of Dr. Scott of course and
9 now-- (pausing.)

10 "QUESTION: Now, in the morning, you never walked
11 by the window?

12 "ANSWER: In the morning? Well is noon the
13 morning? No.

14 "QUESTION: So did you at some point -- at some
15 point in time did you get a message that there was a broken
16 window?

17 "ANSWER: Yes, around 11:24 a.m."

18 So Dr. Scott testified that the first time he was
19 aware of the window was five, six hours before he supposedly
20 took it out-- took out his hammer and broke it.

21 "QUESTION: And so, at 11:24 a.m., what information
22 did you receive, if any, about the broken window?"

23 Page 28 David.

24 (Shown.)

25 "ANSWER: Dr. Noyes sent me an e-mail."

-Summations/Plaintiff-

1 So, again, there's so that cooperation here between
2 Noyes, Dr. Scott, the wife, and the unreconcilable evidence
3 in the police report that I believe you have sufficient
4 --more than sufficient evidence to determine that Dr. Scott
5 not only didn't break the window, but that Joey knew it. He
6 knew it all the time. But certainly by the next day that he
7 runs into Dr. Noyes in the doughnut shop and Dr. Noyes
8 explains to him.

9 What is going on here? What's going on?

10 Why would this be --why would there be all this
11 falseness about something braking the window and Dr. Scott
12 being a vandal? We'll talk about this more but I want you
13 to have that in your mind that it is not only that there's
14 conflicting evidence and you could resolve it one way or the
15 other. But why is this happening? And this is something
16 very important for you to consider as you try to determine
17 whose responsible for any of the suffering that Dr. Scott
18 undertook.

19 So, David put up Exhibit 6, the page with the Lazer
20 quote.

21 (Shown.)

22 This is marked into evidence as the report that was
23 taken down by officer Marc-- I'm going to get that wrong.
24 This is the officer that Dr. Scott testified today was in
25 the backseat with him and he was kind of friendly. He's the

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1 one that took the statement. Here is the statement:

2 "On or about September 16, 2015, at about 4:58 p.m.
3 inside 83 Park Terrace West, in the County and State of New
4 York, the Defendant, Gregory Scott, intentionally damaged
5 property of another while having no right to do so, or any
6 reasonable grounds to believe that he had such a right,"
7 fine.

8 "I am informed"-- this is the officer-- "by Lazer
9 Plunaj of an address known as the District Attorney's Office
10 that he observed the Defendant hit a window at the above
11 location with a hammer and that he observed the window
12 break."

13 And also before him by Lazer, that he is a
14 custodian of the window and that the Defendant did not have
15 permission to damage the window.

16 Now, if much of this evidence we have been
17 discussing is true, of course Lazer's report cannot be true.
18 Again, why would that be? Why -- let's assume that the
19 officer is writing accurately what Lazer told him, I'm sure
20 he was. What's going on here?

21 What is going on?

22 You could conclude that these are mistaken
23 memories. But from what you know and what you have seen
24 that might not be an accurate conclusion.

25 So, as you've been informed Lazer isn't here, which

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1 you might consider makes it easier to throw under the bus
2 because he can't defend himself. He can't tell you his
3 motivations.

4 But what we have is a jury instruction from the
5 Court that you will hear about how to evaluate a party who
6 doesn't show up at a trial and you're deprived of the
7 testimony that you would get from him on my
8 cross-examination, Mr. Cookson's direct, whatever. And I'm
9 not going to give you that jury instruction, that is the job
10 of the Judge. But you will learn that you are allowed to
11 make certain assumptions that the testimony of Lazer would
12 not be favorable to his position, or the position of other
13 defendants as part of the compensation that you're entitled
14 to for not having Lazer on the stand.

15 Now, I don't know if it is in disputed. But let's
16 make sure that you understand the evidence that at the time
17 of the arrest that Hamdi and Joey knew about the tenants
18 association. If they didn't know about the tenants
19 association, it is a different scenario.

20 Would you put up Dr. Scott's Page 18.

21 (Shown.)

22 So the issue we're trying to make sure gets
23 resolved is the knowledge of Hamdi and the knowledge of Joey
24 about the tenants association, because that certainly is a
25 point of contingency.

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1 We start Page 18, Line 18: (Reading.)

2 "QUESTION: Now, when was the first time you
3 informed anyone at Kosova that you were going to form a
4 tenants association?

5 "ANSWER: Directly to Hamdi on September 14th,
6 2015, two days before the arrest by phone recorded."

7 Let me back up a second. There's been no contrary
8 evidence in the case. The recording was not introduced
9 because there was no dispute about it.

10 But two days before the arrest Hamdi understands
11 that there's a tenants association. So we heard from Mr.
12 Cookson how Hamdi was not involved. We also heard Hamdi is
13 the boss. Two days before the arrest he's -- he learns
14 about the tenant association and we will discuss later his
15 reaction to that. But clearly if this had said September
16 teen 17th, we could not have said that Hamdi was involved in
17 the decision to have the false arrest. This is the 14th,
18 just before. It is not like it is July, all right.

19 So for Hamdi it appears that his first knowledge of
20 Dr. Scott, the troublemaker, the head of the tenants
21 association, the 14th, just two days before.

22 And what about Joey --

23 "QUESTION: What about Joey, did you have inform
24 Joey that you intended to form a tenants association?

25 "ANSWER: Yes, March 2nd.

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1 "QUESTION: Yes."

2 David, I need the next page.

3 (Shown.)

4 Again this is Dr. Scott testifying:

5 (Reading.)

6 "ANSWER: Sorry, yes.

7 "QUESTION: Just answer the question.

8 So, when did you inform Joey for the first time
9 that you intended to form a tenants association?

10 "ANSWER: March 2nd, 2015, whatever that is six
11 months earlier.

12 "QUESTION: And did Joey have any reaction to the
13 information you gave him that you intended to form a tenants
14 association?

15 "QUESTION: "--

16 He said, quote. This is Dr. Scott trying to use
17 the exact words. "If you do that Lucky and two others will
18 come over and you will be gone. And we have -- and we can
19 get into your apartment at any time quote/unquote.

20 So, it is very similar to what you heard today from
21 Dr. Scott he repeated it. And we have sort of a blanket
22 denial from Joey.

23 And so, whether you believe that a death threat was
24 made or not, I leave that to your good judgment, clearly
25 Joey and Hamdi both knew about the tenants association; Joey

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1 well before and Hamdi just before. And you need to take
2 that into account in answering my question, what is going on
3 here?

4 What is going on here?

5 Scott testified at some length back in January
6 about the whole scenario and basically repeated it again
7 today. And the scenario includes a lot of important facts;

8 It includes the contradiction between Dr. Noyes's
9 report of Joey's conversation the day after.

10 It includes the issue of damages and the level of
11 emotional distress, hopefully, there's no claim that Dr.
12 Scott suffered no emotional distress from this exercise.

13 So, for better or worse, I'm going to have to take
14 you through that testimony of the day because it is very
15 important for you to understand exactly what the evidence is
16 that we relied upon.

17 Page 33 of Dr. Scott.

18 (Shown.)

19 So as you heard today, Dr. Scott there is a knock
20 on Dr. Scott's door, it is the police. And Dr. Scott
21 testified he was happy, he thought it was the electrician
22 but it wasn't not the electrician.

23 So, Dr. Scott testified under oath back in January
24 some of the details that are important.

25 "QUESTION: So after this conversation with the

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1 police, whatever the contexts are that you recall, did the
2 police do anything next?

3 "ANSWER: As soon as I said he's lying, she said
4 step out and turn around.

5 "QUESTION: And when you stepped out and turned
6 around, did anything happen?

7 "ANSWER: Well, they handcuffed me.

8 "QUESTION: Okay. After they handcuffed you, did
9 they do anything else to you?

10 "ANSWER: They called out from to the stairwell.
11 They say, come on out. And Joey and Lazer stepped out from
12 where they were hiding in the stairwell. And they said--
13 both of them say, yes, that's the guy."

14 If you credit that testimony, the defense that Joey
15 and Hamdi had nothing to do with the arrest, of course it
16 cannot survive.

17 What does it say here? Joey pointing to Dr. Scott
18 to the police, that's the guy.

19 So that is your credibility job. That is your need
20 to not just judge Dr. Scott on the stand, look like he was
21 telling the truth but put it into the context of all of
22 other facts that we have heard about.

23 Let me continue on a little bit about the
24 testimony. David Page 36.

25 (Shown.)

-Summations/Plaintiff-

1 So you will notice this, Dr. Scott's testimony
2 about Joey being there, it is not a simple one line
3 testimony. It is not just that's the guy and that's all.
4 There's more evidence coming out of the witness stand from
5 Dr. Scott.

6 (Reading.)

7 "QUESTION: So now am I correct that you end up
8 down in the lobby, either you came down the stairs where the
9 elevator and who is in the lobby at the time you get there?

10 "ANSWER: I believe that Joey and Lazer were behind
11 me following as the police took me through the lobby and put
12 me right into the police car."

13 So that goes, you could conclude that that goes
14 with what I just read earlier from the testimony that Joey
15 and Lazer are waiting for the police to make the arrest,
16 they point him out, and then they follow him down to the
17 police car. This is in contrast to Joey's testimony that he
18 wasn't there and you're going to have to make that choice.

19 And you heard some testimony about the blonde
20 police officer. Note the significance of her being blonde,
21 but she is apparently.

22 (Reading.)

23 "QUESTION: So you're in the lobby and you say Joey
24 and Lazer are followed down. So there is these two police
25 people you, Joey, and Lazer; is anybody else in the lobby

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1 that you know of?

2 "ANSWER: Only the blonde police woman and Joey
3 were in the lobby as I got into the car.

4 Lazer continued with another associate of Albania
5 -- so I'm sorry Kosova. And Lazer went 15 yards away to
6 this stoop next-door and sat on that stoop with the other
7 guy from Kosova."

8 That is exactly what he said to them five weeks
9 later. So it is not just one statement, he's repeated it
10 under oath.

11 Now, Dr. Scott also testified today that there was
12 conversation between Joey and the police officer while Dr.
13 Scott was in the police car handcuffed. This was not
14 something new. This is what Dr. Scott testified to back
15 when we were here in January.

16 Please go to Page 37, David.

17 (Shown.)

18 Again, the issue we're looking at is:

19 Was Joey there was he part of this false arrest
20 scenario, was he participating.

21 You heard Mr. Cookson say he believed that the
22 evidence showed there was no participation by Joey or Hamdi.
23 But this is his testimony from January.

24 And it was Joey and the blonde police woman who
25 were in the lobby right by the front door that had been

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1 propped open. So there they were. I was near the sidewalk.
2 You step up, I don't know, 20 feet, and they were talking
3 while I was waiting in the police car for my wife to get
4 back.

5 (Reading.)

6 "QUESTION: While you were in the police car, were
7 you able to observe what Joey was doing?

8 "ANSWER: He was talking to the blonde police
9 woman.

10 "QUESTION: Was that out in the street, was it?

11 "ANSWER: In the lobby by the front door just
12 20 feet away from the car. So right by the sidewalk of the
13 front door."

14 "QUESTION: Could you hear what he Joey said?

15 "ANSWER: No.

16 Again more evidence that Joey is not just there.
17 He's speaking to the police woman presumably about what just
18 happened. But Dr. Scott couldn't hear and if Dr. Scott was
19 a liar, you would think he would make up a story, oh, I
20 heard him say, whatever. But Dr. Scott doesn't do that.
21 And that should be weighed in with your credibility
22 evaluation of Dr. Scott.

23 (Reading.)

24 "QUESTION: How long was the conversation between
25 Joey and the police person after you had been handcuffed and

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1 put into the back of the vehicle?

2 "ANSWER: It was the whole time that I was there
3 until my wife came walking up.

4 "QUESTION: And can you put in an approximate how
5 much time?

6 "ANSWER: Ten to 15 minutes."

7 So Dr. Scott testifies that Joey is talking 10 to
8 15 minutes to the police officer and this is contrasted with
9 Mr. Cookson's argument that Joey had nothing to do with this
10 arrest. And we would ask you to evaluate your decision
11 based on the credibility of Dr. Scott in his detail.

12 You will notice that there's plenty of detail in
13 all of this, it is not just like, uhm, Joey's testimony, I
14 wasn't there. He doesn't say where he was, by the way;

15 He doesn't say that he had a reason to be somewhere
16 else or that there was a witness that saw him somewhere
17 else. And that is very important because this is such a
18 crucial fact whether Joey was there or not. And you would
19 expect if Joey was somewhere else, if we would have seen a
20 witness up there, Mr. Cookson talked about missing witness,
21 where is the witness telling where Joey was that day that he
22 was in someplace other than 83 Park Terrace, didn't happen.

23 So, when you try to resolve the issue of was this
24 just Lazer on his own? Was this just his idea or was it his
25 bosses and his employers? And we're going to ask you to

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1 conclude that Joey and Hamdi were responsible for the false
2 reporting because there's been no evidence that Lazer had
3 any interest in doing this, he had no motive for putting
4 himself in jeopardy for making a false police report for his
5 own benefit. There's a complete lack of evidence in that.

6 And so, Dr. Scott testified to his thoughts on what
7 was going on.

8 David if you would get Page 45, that is going to be
9 46 pretty quickly.

10 (Shown.)

11 (Shown.)

12 "QUESTION: Did you have any thought in your head
13 about why either Lazer or Joey, or anyone at Kosova would
14 have made that report against you?

15 "ANSWER: So I was such a good tenant that I knew
16 and from the lease and so forth, I knew that the only way
17 they could get me out of the apartment is if I committed
18 some crime, which would give them legal justification of
19 getting me out and so."

20 There's an objection.

21 "ANSWER: Okay, justification. I knew that they
22 needed some justification to get me out and that a crime was
23 one of them because I would be braking the lease.

24 So I immediately -- I thought, of course, given
25 everything that happened that we now talked about from the

1 last 45 minutes of my testimony, they're trying to get me
2 out."

3 Now, I would say that Dr. Scott would be most
4 qualified person to figure out this scenario and why this
5 false report, again, I think you should be able to conclude
6 that he didn't break the window and everything flows from
7 that. This is Dr. Scott, the troublemaker, and there seems
8 to be a logical explanation for why this is happening and it
9 comes from Dr. Scott, we were asking you to consider that
10 during your deliberation.

11 Now David we're going to go to Joey, Page 29.

12 (Shown.)

13 Now what proof is there in the record that Joey was
14 the manager of the building and not Lazer?

15 We direct you to Joey's own testimony. And this is
16 mid answer but you all, uhm -- all right lets go back.

17 (Reading.)

18 "QUESTION: Thank you. I'll rephrase the question.

19 So having received the information from Dr. Noyes
20 that Lazer's information about Dr. Scott braking the window
21 in the evening might be false, you didn't do anything?

22 "ANSWER: The police were called when a crime is
23 reported and you depend on the police to investigate. And
24 at that time I didn't know, or didn't have information about
25 anything.

-Summations/Plaintiff-

1 The next day something was said, oh, that, like I
2 said, no information was given to me that this window was
3 broken ahead of time."

4 And you could judge the truth of that statement
5 from everything else we've mentioned.

6 And this is Joey continuing testifying.

7 (Reading.)

8 "ANSWER: Now as a manager of the building."

9 So there's the admission that it is Joey is the
10 manager of the building and not quote the super, the
11 cleaner--

12 "QUESTION: Now, as manager of the building, the
13 super, the cleaner, whatever you want to call me, the many
14 job tiles that I have there. It is a six story building,
15 many people. So, there shouldn't be a dispute that Joey is
16 the manager of the building and now manager of the
17 building."

18 It says it right there. It is as important as they
19 try to throw Lazer under the bus and say that Lazer assume
20 that he had authority, I guess, to make a false police
21 report.

22 David, Page 30.

23 (Shown.)

24 So, the evidence is that Joey made a conscious
25 decision not to investigate what happened. And you might

-Summations/Plaintiff-

1 conclude and investigate because he knew what happened. He
2 knew exactly what happened that I date and what didn't
3 happen. But we asked him and the answer --

4 Could you flip to 29. There's a question on top of
5 that.

6 (Shown.)

7 So this is Lazer's boss Joey.

8 (Reading.)

9 "QUESTION: If you had learned that Lazer had made
10 a false report to the police, as his boss would you have
11 disciplined them?"

12 What do you think the answer should be? It isn't.

13 (Reading.)

14 "ANSWER: I would have to see that brought before
15 me to better investigate it. Given the opportunity to think
16 a little bit, and then see what it entails to try and do
17 something about it if it was necessary.

18 "QUESTION: I don't think you answered my
19 question."

20 This goes to a piece when Joey was on the stand and
21 I asked him if Dr. Scott broke the window and he would not
22 answer the question. I said that is an allegation. There's
23 a pattern here a pattern of not answering the question. And
24 you should take that into account in assessing Joey's
25 credibility.

1 (Reading.)

2 "QUESTION: I don't think you answered my question.
3 Let me try it again.

4 If you concluded in your own mind that Lazer had
5 made a false report to the police about Dr. Scott, would you
6 have disciplined? Again, I would have to know the grounds
7 and investigate."

8 It was a simple question. And he's dissembling
9 because he doesn't want to --you could conclude he doesn't
10 want to answer a simple yes or no. And I leave it to you to
11 conclude what his answer would be if it was yes or no; would
12 he have disciplined him if he knew it was a false report?

13 Now, Hamdi's role, again, Mr. Cookson was arguing
14 that neither Hamdi or Joey should be held liable for any
15 problems because they weren't there or participating.

16 David would you put up Hamdi's -- I don't know the
17 page number -- well, in light of the fact I don't have the
18 page number I will just recite to you, which I'm sure you
19 remember;

20 That Hamdi had testified that he authorized Shpend
21 to act on behalf of Kosova Properties when Hamdi isn't
22 there.

23 The answer was, yes.

24 It is pretty obvious that from everything that we
25 know that Hamdi was the ultimate decision maker and

-Summations/Plaintiff-

1 certainly could of made the decision to have the false
2 arrest scenario take place if that is what he wanted to and
3 he had that authority.

4 Exhibit 1--

5 THE COURT: Ladies and Gentlemen of the Jury, to
6 give you a heads-up. While we take lunch at 1:00 I would
7 like to continue, I have the permission of the work staff to
8 do so. We're going to finish with Plaintiff's summation and
9 we will take our hour lunch and come back for my
10 instructions. I want to give you a warning to let you know
11 what is happening.

12 You could continue.

13 I'm also allowing extra consideration that we did
14 take the long break, both attorneys were made aware they
15 could take the time that they needed.

16 MR. BASIL: I hope I don't make you miss lunch.

17 In any event, the Judge has allowed us to have
18 Exhibit 1 into evidence. It is a statement that Hamdi made
19 at some point in time.

20 (Shown.)

21 (Reading.)

22 "We have never encountered such means of annoyance
23 by a tenant and did not know any other way to handle it,
24 except to call the authorities to report it."

25 And we would ask you to consider the statement by

-Summations/Plaintiff-

1 Hamdi as authorization to what to do in the scenario that
2 Lazer found himself in. We would ask to you accept this as
3 the policy of Kosova and that, therefore, Lazer should not
4 be viewed as acting on his own but within the scope of his
5 employment exercising the authority that was given by Hamdi
6 in this very simple sentence.

7 Now one of the charges in the case is a negligent
8 hiring and retention of Lazer and Mr. Cookson addressed that
9 in his remarks.

10 We believe that the evidence is strong that Kosova,
11 and that would be this is not an individual claim against
12 Hamdi or Joey or Lazer, for that matter, this is a claim
13 against Kosova. It is saying that Kosova was negligent in
14 the hiring process.

15 So, David put up (a)(1), Page 14 of Hamdi.

16 (Shown.)

17 So we ask you to consider that whole process of
18 hiring Hamdi because it is negligent hiring.

19 (Reading.)

20 "QUESTION: Before you hired Lazer" --

21 This is Hamdi's testimony --

22 "QUESTION: --to be superintendent for the
23 building, did you conduct a background check on him?

24 "ANSWER: Did I do what?

25 "QUESTION: Did you conduct a background check on

1 him?

2 "ANSWER: No.

3 "QUESTION: Why not?

4 "ANSWER: I never did the background check on
5 supers.

6 "QUESTION: So is it fair to say that it is your
7 policy not to conduct background checks for supers?

8 "ANSWER: It is not my policy. I did not see it
9 needed at that time.

10 "QUESTION: Do you need to do that now when you
11 hire somebody? Do you run a background check on them?

12 "ANSWER: Now it might be needed."

13 So the world changed for Hamdi maybe because of
14 Lazer, that would be up to you conclude.

15 But in that process of hiring, it is a residential
16 building with dozens of residential tenants and they don't
17 do a background check on a super. As you heard he's going
18 to have as you heard have access to people's apartments. We
19 claim that is part of the proof that you will need to
20 determine that there was negligent hiring and retention of
21 Lazer.

22 Put up Page 17, David.

23 (Shown.)

24 As I heard this is a sizeable operation, 30
25 something units and how is it being run?

-Summations/Plaintiff-

1 (Reading.)

2 "QUESTION: I mean, do you have any written
3 documents regarding the hiring of Lazer?

4 "ANSWER: No.

5 "QUESTION: Not a single document, right?

6 "ANSWER: I have no document, no.

7 "QUESTION: And is that because you keep all the
8 information in your head?

9 "ANSWER: At that time I was young and I had a lot
10 of things in my head."

11 Okay, that is kind of humorous but it shows that
12 that process is, we can't even check it.

13 There's been testimony that there's no evidence.
14 Well, shame on me, shame on the Plaintiff's team, there's no
15 evidence to look at to see what that process was. But we
16 know from what we hear that it was pretty skimpy.

17 So -- I think that is fine for that.

18 I want to go to Hamdi, Page 22.

19 (Shown.)

20 So, of course by nature I'm jumping around because
21 I don't know why, why not.

22 I want to go back to the incentive issues. Between
23 the three Lazer, Hamdi, and Joey, who had incentive and who
24 did not to, if you believe Plaintiff's side, pull off this
25 scream of false arrest and malicious prosecution.

-Summations/Plaintiff-

1 So, what was Hamdi's attitude toward Mr. Scott--
2 Dr. Scott?

3 (Reading.)

4 "QUESTION: When you found out that Dr. Scott was
5 arrested for breaking the window, it made you feel good?

6 "ANSWER: I don't know what made me feel. I don't
7 remember."

8 Next page. Sorry, David I need Page 26.

9 Again, this is Hamdi:

10 (Reading.)

11 "QUESTION: You just testified that he, Dr. Scott,
12 was trying to organize a tenants association?

13 "ANSWER: I don't know for what reason he was
14 trying to organize a tenants association.

15 "QUESTION: I'm not asking you what his reason was.
16 My question is that when he was organizing a tenants
17 association, that was one of the reasons you said you had a
18 very low opinion of Dr. Scott; is that right?

19 "ANSWER: Right.

20 "QUESTION: I'm sorry, that's right?

21 "ANSWER: Right."

22 So it is clear Hamdi didn't like the tenants
23 association. He only found out, as you know, two days
24 before the incident. And so that attitude, whatever it was
25 before then, his low opinion, you could conclude certainly

-Summations/Plaintiff-

1 got lower and you could also conclude that that is why what
2 happened, happened.

3 So, we trust that that is enough evidence for you
4 to conclude that the Defendants are liable to Dr. Scott on
5 all three theories of the case.

6 And now, so what? Well, now we talk about the
7 damages.

8 And the damages again, except for the \$1,500 are
9 all based on emotional distress.

10 Dr. Scott testified at some length about his
11 emotional distress.

12 So David if you could get Dr. Scott, Page 35.

13 (Shown.)

14 So this is one of first pieces of testimony of Dr.
15 Scott was his description of his mental state as he's being
16 arrested.

17 (Reading.)

18 "QUESTION: Am I correct that they walked you down
19 the stairs?

20 "ANSWER: Oh, God, the elevator is right next to my
21 apartment. I don't recall whether-- I was just so stunned
22 that I don't remember whether we talked, which is the normal
23 way I go, or whether --I don't remember."

24 So at that point in time Dr. Scott, an articulate
25 fellow, has a PhD in something or another. He is so stunned

-Summations/Plaintiff-

1 he can't even remember if he walked down or took the
2 elevator because of his emotional distress.

3 Now we go to Page 36, David.

4 (Shown.)

5 Now I ask him:

6 (Reading.)

7 "QUESTION: How would you describe your
8 state-of-mind at that point in time?

9 "ANSWER: Anxious. Greatly anxious, scared for
10 her.

11 "QUESTION: Okay. So now --

12 "ANSWER: I'm mad at being arrested.

13 "QUESTION: Fair."

14 So at that point of time of arrest he's scared for
15 his wife and he's also mad because he's being arrested,
16 clearly emotional distress stress is in play here. He's
17 suffering if you believe his testimony.

18 And so, Page 39, David.

19 Of course his ordeal is just beginning. He's still
20 in the apartment and he's got a lot to go.

21 So when you consider Dr. Scott's emotional distress
22 you should take into consider his description under oath as
23 being anxious and very anxious scared for his wife.

24 But he also testified that he observed his wife
25 when she approached the police car.

-Summations/Plaintiff-

1 (Reading.)

2 "QUESTION: Did your wife, when she saw you in that
3 situation, appear to be upset?

4 "ANSWER: Very.

5 "QUESTION: Did she appear to be anxious?

6 "ANSWER: Yes.

7 "QUESTION: Did she appear to be under stress.

8 "ANSWER: Yes. So not only is Dr. Scott having his
9 own emotional distress from his arrest, the handcuffing and
10 everything else; he's also putting his wife under great
11 distress because of the scenario. Remember, his wife in her
12 mind knows that he's innocent. It is more stressful of what
13 occurred because there's this since of injustice.

14 Of course it doesn't work out for Dr. Scott. He is
15 arrested, despite his wife report to the police that he
16 could not have broken the window.

17 And Dr. Scott had testified that he had another
18 problem with the scenario, in that his wife didn't have a
19 key and he had to make sure he stuck around, the police
20 would let him stick around so that he could give the key to
21 the wife. It was just a cascading series of events; and
22 that is what the emotional distress is all about.

23 David, go to Page 45.

24 (Shown.)

25 So how stressful was Dr. Scott's experience while

-Summations/Plaintiff-

1 he was arrested and put in jail? He testified to that. He
2 said:

3 (Reading.)

4 "ANSWER: And so I just sat and did all the
5 processing, fingerprinted, photographed for three hours.

6 "QUESTION: So you were fingerprinted.

7 "ANSWER: Yes.

8 "QUESTION: You were mug shotted?

9 "ANSWER: Yes.

10 "QUESTION: Did they tell you how long you would
11 have to wait?

12 "ANSWER: No."

13 Again, he's down in the police station and has no
14 idea when he's going to get back open.

15 (Reading.)

16 "QUESTION: At that point in time, you didn't know
17 whether it was going to be an hour or much much longer?

18 "ANSWER: Correct.

19 "QUESTION: How was your mental state at this
20 point?"

21 Again this is another piece of testimony about
22 emotional distress.

23 "ANSWER: Fraught. Again, conflictually emotions.
24 Just wondering how this could happen? Why are they
25 believing-- and then I didn't trust them, the police,

-Summations/Plaintiff-

1 because of what they did. And I wanted to show them an
2 e-mail that would have, and I actually did in the end, I
3 showed it to the younger officer. And that would have
4 stopped them from arresting me, but they wouldn't. They
5 took the phone away from me and wouldn't let me do
6 anything."

7 So, again, another strike of emotional distress.
8 This is maybe not continuous, it is kind of a chart where it
9 comes down bit and then boom, he gets hit with something
10 new.

11 Pick up there--

12 THE COURT: Page 46?

13 MR. BASIL: Page 46.

14 THE COURT: Thank you.

15 (Shown.)

16 So, Dr. Scott goes onto describe what it was like
17 for the jail.

18 And he says:

19 (Reading.)

20 "QUESTION: So, this jail cell you were in, could
21 you describe it?

22 "ANSWER: Not the Hilton.

23 "QUESTION: What was it?"

24 Page 47.

25 "ANSWER: I would say 12 to 16 feet, you know, just

-Summations/Plaintiff-

1 concrete, a slab that you sit on, locked up. You're looking
2 -- there was another cell next to it and you're looking to
3 the processing area.

4 "QUESTION: Was there is toilet facility?

5 "ANSWER: Not in it.

6 "QUESTION: Were you alone or were you with others?

7 "ANSWER: There was another man in it.

8 "QUESTION: Among the stressful events in your
9 life, somewhat long life, how would you rank this ordeal
10 that you just described to us as far as stressful events?

11 "ANSWER: Second.

12 "QUESTION: Second. How old are you at this time?

13 "ANSWER: 65.

14 So in 65 years he only had one more stressful
15 event. We never got to find out what that was. But, in
16 any, event 65 years this is number two, I think that is
17 strong enough for you to conclude that this emotional
18 distress was highly significant.

19 Page 48.

20 (Shown.)

21 So the fact that Dr. Scott's wife was also
22 distressed by this, I ask you to take into consideration
23 because naturally any married couple is going to share in
24 the stress of their spouse and certainly according to Dr.
25 Scott it happened here.

-Summations/Plaintiff-

1 (Reading.)

2 "QUESTION: And when you finally got home, what was
3 your wife's emotional state that you observed?

4 "ANSWER: So she was so upset about the death
5 threat from March, which had scared her greatly to the point
6 where we had to buy a bar for our master bedroom door at
7 night because--"

8 We'll get into that later.

9 "ANSWER: She was greatly scared and wondering
10 why -- wondering what was happening to me and concerned
11 about me."

12 So after he got home, there was no great relief
13 because he goes home and sees the condition of his wife.
14 Again, another bolt in that up and down of events of
15 emotional distress at that point in time.

16 Now, you heard today about the postarrest activity
17 at the courthouse. And maybe what was not clear is that for
18 four and-a-half months Dr. Scott has this hanging over his
19 head.

20 David put number six up there.

21 (Shown.)

22 MR. BASIL: So, in September of 2015 Dr. Scott is
23 arrested;

24 February 2nd, remember it is four and-a-half months
25 later.

-Summations/Plaintiff-

1 Finally people concede 30/30. Dismissed and
2 sealed.

3 In other words, it wasn't until February 2, 2016,
4 that the arrest from September 16th, 2015, was finally
5 cleared. And we ask you to take into consideration the
6 stress that Dr. Scott was under during that period of time
7 when he did not know if he was going to be prosecuted or he
8 did not know if prosecution would be successful and yet he
9 had to go on and live his life and try to, as best he can,
10 ignore a situation that he should never have been subjected
11 to.

12 Page 52.

13 And so this is the last piece I'm going to subject
14 you to in your emotional distress about emotional distress.
15 It is really a summary by Dr. Scott on the stand back in
16 January about this period of time where he's charged with a
17 crime and doesn't know what is going to happen. And so:

18 (Reading.)

19 "QUESTION: So this process of being accused of a
20 crime, arrested, jailed, released but not cleared over the
21 course of four and-a-half months, what impact did this have
22 on your life?

23 "ANSWER: It consumes you completely in part
24 because you don't know whether the powerful DA will end up
25 prosecuting you. So from morning tonight, you're just

-Summations/Plaintiff-

1 trying to find a lawyer to begin with. You don't know any
2 criminal lawyers. You're an academic. Your wife, your
3 frequenting out about what else they might do to you and
4 your life is consumed by it until they finally say you're
5 off the hook."

6 So I ask you to credit that testimony and when
7 you're deciding one, if emotional distress was caused by
8 these acts of the Defendants, you take that into account;

9 And also when we get to the point of what should be
10 done to compensation Dr. Scott, then you take this into
11 consideration.

12 Part of what I'm allowed to do in my opening
13 statement -- that was a while-- in my closing statement is
14 to suggest to you what compensation you should give. The
15 decision is yours. All I could do is make a suggestion and
16 it's far from gospel. But what I suggest will be how I
17 believe that you could very well, in a sense of doing
18 justice, review all that we have just been through; and that
19 is to award Dr. Scott the amount of \$175,000;

20 Now, I'm not here to ask you for a million dollars,
21 I'm not here to ask you for \$100, I'm here to ask you to
22 consider all that we've reviewed here, and which your
23 patience are somewhat amazing, and come to that number. It
24 is probably the most difficult task that you have;

25 So I'm allowed to put a marker in the ground for

-Summations/Plaintiff-

1 you to look at, for you to consider, or for you to ignore
2 and my marker is \$175,000.

3 I need a little break here.

4 Your Honor, may I have a couple of minutes to
5 finish up?

6 THE COURT: Yes.

7 MR. BASIL: Thank you.

8 (Pausing.)

9 One of the issues Joey raised on the stand when we
10 were back here in January was the testimony about Dr. Scott
11 injuring or breaking Joey's nose. And that -- that issue
12 was never developed. And what I ask you to do is, to the
13 extent you take that into consideration, to note the
14 incompleteness of that story and to note that defense never
15 followed up on it to tell what was involved there and I'm
16 certainly not here to tell you what was following up. But I
17 think that what I would suggest is that, to the extent you
18 take that into consideration, you should consider the
19 relationship that Joey had with Dr. Scott;

20 As we have said with Hamdi, Hamdi had a very low
21 opinion had Dr. Scott. And Joey, the evidence I think
22 shows, had a worse one. Joey is the one that-- whether you
23 considered those words "death penalty" or just a threat of
24 violence or scare tactic, it is clearly not a conversation
25 between two people who have a lot of respect for each other.

-Summations/Plaintiff-

1 Again, with the testimony about Dr. Scott hurting
2 Joey's nose, I just want you to understand how incomplete
3 that is and how it really shouldn't be part of what the
4 defense, I assume, or Joey wanted, and that was to take
5 another shot at Dr. Scott.

6 Now, there's going to be various jury instructions
7 that the Court gives to you, not that the lawyers give to
8 you. But we can give you a summary of that to help you out
9 and we believe that -- I believe that that will be helpful
10 to you;

11 One of them is the burden of proof. This is a
12 civil matter. We're not --

13 MR. COOKSON: Objection, your Honor.

14 THE COURT: Overruled.

15 MR. BASIL: This is a civil matter. You may be
16 familiar with the criminal burden, beyond a reasonable doubt
17 enshrined our Constitution. That is not what we're here on.

18 We are here on a civil matter. You'll hear the
19 Court give you instructions about something called the
20 preponderance of evidence and what that means and how, as a
21 preview, it is a way you weigh the evidence on each side and
22 whenever one is heavier no matter which way, is how you have
23 to go. You will get much better instructions from the
24 Court.

25 I want to remind you that this is not Donald Trump

-Summations/Plaintiff-

1 in trouble. This is not any-- anyhow.

2 So, for the negligence of hiring, the burden is on
3 Dr. Scott and the Plaintiff's team to show by a
4 preponderance of evidence that Kosova was negligent in the
5 hiring and retention of Lazer;

6 Likewise, for false arrest. Again, the burden is
7 on us. We come to the court with the burden. That is why I
8 talk five times as long as Mr. Cookson.

9 We come to the Court with this burden that we have
10 to carry. So for false arrest, again, it is preponderance
11 of the evidence. The Judge will give you the different
12 elements you need to apply that to, but we have the burden
13 of each of those elements. It is thin, but it is there.

14 As far as malicious prosecution. It is the same.
15 You will hear, as far as malice goes, we have a heightened
16 standard. Our burden is preponderance of the evidence for
17 everything that we have to prove except for malice, step up.
18 Clear and convincing evidence. No more of this if we just
19 get by a nose that we win. The Judge will explain clear and
20 convincing evidence to you in a much better way than I just
21 did.

22 So, as an outline of how we would ask you to find
23 that we carry our burden of proof on false arrest. A person
24 who commits false arrest if he or she intentionally without
25 the right to do so cases an arrest of another who is aware

-Summations/Plaintiff-

1 of the arrest and did not consent to it.

2 THE COURT: I'm going to caution you.

3 MR. BASIL: Excuse me?

4 THE COURT: I am going to caution you.

5 MR. BASIL: I don't want you to usurp the role of
6 the Court and then having try to figure out is Mr. Basil
7 being am accurate descriptor. I'll leave it to her.

8 I believe that we have given you enough evidence
9 and explanation to come to a fair and just verdict. We look
10 forward to you doing that. Again, the Judge will give you
11 very important instructions about how you go about in that
12 process.

13 You will have a verdict sheet and you will fill out
14 as a team and that will give you guidance to the structure
15 of your decision-making. And all we can do is thank you.

16 THE COURT: Thank you so much. You've been
17 outstanding throughout this whole trial.

18 We're going to go to lunch. I'm going to ask you
19 to come back at 2:45.

20 MR. COOKSON: It is 1:30.

21 THE COURT: Is that okay? Make sure you don't eat
22 too much cabs, you need to pay attention. There's a lot of
23 instructions. So we want you to be alert and come back.

24 The same guess for you all. Enjoy.

25 THE COURT OFFICER: All rise. Jury existing.

-Summations/Plaintiff-

1 (Whereupon, the jury exits the courtroom and the
2 following is heard outside the hearing and presence of the
3 jury.)

4 THE COURT: Thank you. Thank you everybody. Thank
5 staff. The doors are going to be locked. You could go off
6 the record --

7 MR. COOKSON: I would like to make a record about.

8 THE COURT: Okay. We're going to make a record
9 when we come back. See you in an hour.

10 (Lunch recess taken.)

11 (Continued next page.)
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-Summations/Plaintiff-

1 A F T E R N O O N S E S S I O N :

2 THE COURT: What is your issue?

3 MR. COHEN: This is Jury Instruction 2:240

4 Liability For the Conduct of Another, negligence Supervision
5 Retention Or Hiring--

6 THE COURT: Speak loudly.

7 MR. COHEN: Your Honor, as I said, this concerns
8 Jury Instruction 2:240. Liability For the Conduct of
9 Another, Negligence Supervision Hiring Or Retention.

10 THE COURT: 2:240?

11 MR. COHEN: Yes.

12 THE COURT: Negligent Hiring, Negligence
13 Supervision Hiring Or Retention.

14 MR. COHEN: Your Honor, when we had this break,
15 month long break from trial, the parties worked together to
16 try to agree upon jury instructions and we did here; but I
17 made the mistake of including some language in here that we
18 have agreed to strike. So --

19 THE COURT: Good. I'll take it out. What do you
20 want?

21 MR. COHEN: Could I show you?

22 THE COURT: Direct me to what paragraph.

23 MR. BASIL: The first paragraph.

24 THE COURT: While generally an employee is not
25 responsible --

-Summations/Plaintiff-

1 MR. COHEN: It is the part that says in the middle
2 of the paragraph. It has --

3 THE COURT: As an employer fails in his duty.

4 MR. COHEN: This duty of reasonable care two
5 aspects an employee.

6 THE COURT: So is that what I'm crossing out, this?

7 MR. COHEN: No. It uses the term a "vicious
8 disposition." So we're taking that out leaving it
9 "propensity to lie." We're taking about a "vicious
10 disposition" should be stricken.

11 THE COURT: I apologize.

12 So this duty of a reasonable care has two aspects;
13 an employer fails in his duty where it knows that an
14 employee parentheses is incompetent, has vicious
15 propensities. This is not the one?

16 MR. COOKSON: That is the Pattern Charge. We
17 agreed on a different charge and sent it to you.

18 THE COURT: This is what I put in there. I am so
19 sorry. We're talking about the wrong charge altogether?
20 This is not in your e-mail that you gave me?

21 MR. COHEN: No. The e-mail that I gave you -- may
22 I approach.

23 THE COURT: Yes, everything might be wrong.

24 Right here. This is your edits. Come up.

25 (Whereupon, a bench conference took place between

-Charge-

1 counsel and the Court.)

2 THE COURT OFFICER: All rise. Jury entering.

3 (Whereupon, the jury enters the courtroom and the
4 following is heard inside the hearing and presence of the
5 jury.)

6 THE COURT: Thank you for your patience. We
7 appreciate you.

8 If at any time you can't hear me, tell me. It's
9 important you hear the instructions.

10 All right. Members of the Jury, we come around to
11 that portion of the trial where you are instructed on the
12 law applicable to the case and after which you will retire
13 for your final deliberations.

14 You have now heard all of the evidence introduced
15 by the parties and through arguments of their attorneys you
16 have learned the conclusions in which each party believes
17 should be drawn from the evidence presented to you.

18 You will recall at the beginning of the trial I
19 stated certain principles. Briefly, they were, that you are
20 bound to accept the rules of law as I give them to you
21 whether or not you agree with them. You're not to ask
22 anyone else about the law. You must not consider or accept
23 any advice about the law from anyone other than me.

24 During this trial I have ruled on the admission of
25 evidence and on motions made with respect to the public and

-Charge-

1 law. You must not conclude from any ruling I have made, any
2 questions I might have asked, or anything I have said that I
3 favor any part to this lawsuit. Your view of the evidence
4 and your decisions on the issues of fact will decide this
5 case.

6 During the trial I may have sustained objections to
7 questions without allowing the witness to answer, or where
8 an answer was made I instructed that it be removed or
9 stricken from the record and that you disregard it and
10 dismiss it from your minds. In reaching your decisions, you
11 may not draw any inference or conclusion from an unanswered
12 question, nor may you consider testimony that has been
13 removed or stricken from the record.

14 The law requires that your decisions be made solely
15 on the admitted evidence. Anything I excluded from your
16 consideration was executed because it was not legally
17 admissible.

18 In deciding how much weight if any you choose to
19 give to the testimony of any particular witness, there was
20 no magical formula that can be used. The tests used in your
21 everyday affairs to decide the reliability or unreliability
22 of statements made to you by others are the tests you will
23 apply in your deliberations.

24 In deciding how much weight, if any, to give to a
25 witness's testimony, you may consider the interest or lack

-Charge-

1 of interest of that witness in the outcome of this case; the
2 bias or prejudice of the witness, if there be any, the age,
3 the appearance, the manner in which the witness gave
4 testimony on the stand, the opportunity and ability the
5 witness had to observe facts about which he or she
6 testified; and the probability or improbability of the
7 witness's testimony when considered in the light of all of
8 the other evidence in the case.

9 If it appears that there is a conflict in the
10 evidence you will have to consider whether, and to what
11 extent the apparent conflict can be reconciled by fitting
12 the different versions together, otherwise you will have to
13 decide which of the conflicting versions, if any, you will
14 accept.

15 By the processes I have just described and any
16 further instructions I may give, you as the sole jurors of
17 the facts decide which of the witnesses you believe, what
18 portion of their testimony you accept and what weight you
19 give to it.

20 If you find that any witness has willfully
21 testified falsely as to any material fact, that is as to an
22 important matter, the law permits you to disregard
23 completely the entire testimony of that witness upon the
24 principle that one who testifies falsely about one material
25 fact is likely to testify falsely about everything.

-Charge-

1 You are not required, however, to consider such a
2 witness as totally unbelievable. You may accept so that of
3 his or her testimony as you deem true and disregard what you
4 feel is false.

5 By the processes in which I have just described to
6 you, you as the sole judges of the facts decide which of the
7 witnesses you will believe, what portion of their testimony
8 you accept, and what weight you will give to it.

9 If in the course of your deliberations your
10 recollection of any part of the testimony should fail or you
11 have a question about my instructions to you on the law, you
12 have the right to return to the courtroom for the purpose of
13 having such testimony read to you or have such question
14 answered.

15 In deciding this case you may consider only the
16 exhibits which have been admitted into evidence and the
17 testimony of the witnesses as you have heard it in this
18 courtroom.

19 However, arguments, remarks and summations of the
20 attorneys are not evidence, nor is anything that I now say
21 or may have said with regard to the facts evidence.

22 Do not use any Internet services, social media or
23 text services such as Google, Facebook, Twitter to
24 individually or collectively give or get any information
25 about the case, or to research topics concerning the trial.

-Charge-

1 It is important that electronic devices including
2 any cellphones, smart phones, lap tops, or any other
3 personal electronic device be turned off while you are
4 deliberating. Allowing outside information which maybe
5 inaccurate to affect your judgment is unfair and prejudicial
6 to the parties and could lead to this case having to be
7 retried.

8 The Plaintiff and the Defendant both testified
9 before you. As parties to the action, both were interested
10 witnesses. That is, they have an interest in the outcome of
11 the case that may have affected their testimony.

12 While it is important that the views was all jurors
13 be considered, a verdict of five of the six Members of the
14 Jury will be sufficient under the law. When five of you
15 agree on a verdict, you may report your verdict to the
16 Court.

17 In reaching your verdict you are not to be affected
18 by sympathy for any of the parties, what the reaction of the
19 parties or of the public to your verdict will be; whether it
20 will please or displease anyone, be popular or unpopular or,
21 indeed, any consideration outside the case as it has been
22 presented to you in this courtroom. You should consider
23 only the evidence, both the testimony and exhibits, find the
24 facts from what you consider to be the believable evidence
25 and apply the law as I now give it to you. Your verdict

-Charge-

1 will be determined by the conclusion you reach, no matter
2 whom the verdict helps or hurts.

3 As jurors your duty is to decide from all the
4 testimony that you have heard and the exhibits that have
5 been admitted into evidence what the facts are. You are the
6 sole and exclusive judges of the facts. Neither I, nor
7 anyone else can take over your responsibility to decide the
8 facts of this case which you will do by the answers you
9 provide on the verdict sheet.

10 As sole judges the fact, you must decide which of
11 the witnesses you believe, what portions of their testimony
12 you accept and what weight you give to it.

13 To say that a party has the burden of proof on a
14 particular issue means that, considering all the evidence in
15 this case the parties claim on that issue must be
16 established by a fair preponderance of the credibility
17 evidence.

18 The credible evidence means the testimony or the
19 exhibits you find worthy of belief. A preponderance means
20 the greater part of the evidence. That does not mean the
21 greater number of witnesses, or the greater length of time
22 taken by either side. The phrase preponderance of the
23 evidence refers to the quality of the evidence, its weight
24 and the affect that it has on your minds.

25 In order for a party to prevail on an issue on

-Charge-

1 which he or she has the burden of proof, the evidence that
2 supports his or her claim on that issue must appeal to you
3 as more nearly representing what happened than the evidence
4 opposed to it. If it does not, or if it weighs so evenly
5 that you are unable to say that there is a preponderance on
6 either side, you must decide the question against the party
7 who has the burden of proof and in favor of the opposing
8 party.

9 In this case, the Plaintiff, Gregory Scott, has
10 asserted three causes of action;

11 The first is for false arrest, the second for
12 malicious prosecution and the third claim is for the
13 negligent hiring and supervision.

14 In this claim for false arrest, Gregory Scott has
15 the burden of proving his claim by a fair preponderance of
16 the evidence. In his claim the negligent hiring or
17 supervision, Gregory Scott also has the burden of proving
18 his claim by fair preponderance of the evidence.

19 In its claim for malicious prosecution, Gregory
20 Scott has the burden of proof by a fair preponderance of the
21 evidence that the Defendant initiated the prosecution, and
22 at the time the prosecution was initiated the Defendants did
23 not have probable cause to believe that the Plaintiff was
24 guilty of crime mischief.

25 In addition, in order to prove his claim of

-Charge-

1 malicious prosecution, the burden is on Gregory Scott that
2 the Defendants acted with malice in initiating the
3 prosecution by clear and convincing evidence. This means
4 evidence that satisfies you that there is a high degree of
5 probability that there was malice as I will now define it
6 for you.

7 To decide for the Plaintiff on the question as to
8 whether the Defendants acted with malice when initiating the
9 prosecution, it is not enough to find that the preponderance
10 of the evidence is in the Plaintiff's favor.

11 A party who must prove his claim by a preponderance
12 of the evidence only satisfies you that the evidence
13 supported his case was more nearly represents what actually
14 happened in the evidence than which is opposed to it; but a
15 party must establish his claim by clear and convincing
16 evidence must satisfy you that the evidence makes it highly
17 probably that what he claims is what actually happened.

18 If upon all the evidence you are satisfied that
19 there is a high probability that the Defendants acted with
20 malice, as I have defined it for you, you must decide for
21 the Plaintiff on his claim for malicious prosecution.

22 If you are not satisfied that there is such a high
23 probability, you must decide for the Defendant on
24 Plaintiff's claim of malicious prosecution.

25 Facts must be proved by evidence. Evidence

-Charge-

1 includes the testimony of a witness concerning what the
2 witness saw, heard, or did. Evidence also includes
3 writings, photographs or other physical objects which may be
4 considered as proof of a fact.

5 Evidence can be either direct or circumstantial.
6 Facts maybe proved either by direct or circumstantial
7 evidence or by a combination of both. You may give
8 circumstantial evidence less weight, more weight or the same
9 weight as direct evidence. Direct evidence is evidence of
10 what is witness saw, heard or did which, if believed by you,
11 proves a fact.

12 For example, let us suppose a fact in dispute is
13 whether I knocked over a water glass in the witness' chair.
14 If someone testifies that they saw me knock over the glass,
15 that is direct evidence that I knocked over the glass.

16 Circumstantial evidence is evidence of a fact which
17 does not directly prove a fact in dispute, but which permits
18 a reasonable inference or conclusion that the fact exist.

19 For example, a witness testifies that he saw this
20 water glass on the bench. The witness states that while he
21 was looking the other way he heard the breaking of glass,
22 looked up and saw me wiping water from my clothes and from
23 the papers on the bench. This testimony is not direct
24 evidence that I knocked over the glass, it is circumstantial
25 evidence from which you can reasonably infer that I knocked

-Charge-

1 over the glass. Those facts which form the basis of an
2 inference must be proved. And the inference to be drawn
3 must be one that may be reasonably drawn.

4 In the example, even though the witness did not see
5 me knock over the glass, if you believe his or her
6 testimony, you could conclude that I did. Therefore, the
7 circumstantial evidence, if accepted by you, allows you to
8 conclude that the fact in dispute has been proved.

9 In reaching your conclusion, you may not guess or
10 speculate. Suppose, for example, the witness testifies that
11 the water glass was located equally distance from the Court
12 Clerk and me. The witness states that he heard the breaking
13 of glass and looked up to see both the Court Clerk and me
14 brush water from our clothes. If you believe that
15 testimony, you still cannot decide on that evidence alone
16 who knocked over the water glass. Where these are the only
17 two facts, it would only be a guess as to who did it.

18 If the witness also testifies that he heard the
19 Clerk say "I'm sorry," this additional evidence would allow
20 you to decide who knocked over the water glass.

21 Facts maybe proved either by direct or
22 circumstantial evidence, or by a combination of both. You
23 may give circumstantial evidence less weight, more weight,
24 or the same weight as direct evidence.

25 Generally a party is not required to call any

-Charge-

1 particular person as a witness. However, where a witness
2 does not testify, an inference may be drawn against that
3 party.

4 In this case, Lazer Plunaj, a party defendant did
5 not testify. Therefore, you may, although you are not
6 required to, conclude that the testimony of Lazer Plunaj
7 would not support the position of the Defendants.

8 On the questions of one, whether Lazer Plunaj was
9 telling the truth when he told New York City Police Officer
10 that he saw Gregory Scott break a window with a hammer at
11 the apartment building on September 16, 2015;

12 Two, whether Lazer Plunaj provided information to
13 the other Defendants sufficient to give them probable cause
14 to believe that Dr. Scott was guilty of criminal mischief in
15 the fourth degree by breaking a window with a hammer in the
16 apartment;

17 Three, whether Lazer Plunaj was acting in the scope
18 of his employment by Kosova Properties, Inc. when he told
19 the police Gregory Scott broke the window;

20 And four, whether the information Lazer Plunaj
21 provided to the other Defendants demonstrated that the
22 prosecution against Dr. Scott was motivated by malis or ill
23 will or will not contradict the evidence offered by Dr.
24 Scott on those questions.

25 Additionally, you may although you are not required

-Charge-

1 to, draw the strongest inferences against Lazer Plunaj on
2 those questions to the extent you deem appropriate.

3 You remember that during the trial the attorneys
4 made a stipulation in which they agreed to certain facts.
5 This means that there is no dispute as to these facts and
6 that these facts are established for the purposes of this
7 case. You must consider the agreed facts along with all the
8 other evidence presented and give the agreed facts such
9 weight as you find is appropriate.

10 You will remember that the following facts were
11 agreed to:

12 One, Hamdi Nezaj hired Lazer Plunaj as an employee
13 of the Defendant Kosova Properties, Inc.;

14 Two Lazer Plunaj worked as an employee of Kosova
15 Properties, Inc. until 2017.

16 The fact that the Defendant Shpend Nezaj a/k/a Joey
17 was and still is employed by Kosova Properties and the
18 testimony you have heard of his relationship with his
19 employer may be considered by you in deciding whether the
20 testimony of Joey is in any way influenced by his employment
21 relationship with Kosova Properties.

22 You have heard Plaintiff read portions of the
23 document referred to as Examination Before Trial of
24 witnesses. You may hear the lawyers refer to this document
25 as an EBT or a deposition. At some point before trial, that

-Charge-

1 witness was under oath, answered certain questions put to
2 him by the lawyers. A stenographer recorded the questions
3 and answers and transcribed them into a document which the
4 witness signed before a Notary Public. Portions of the
5 transcript of the Examination Before Trial you heard are be
6 to considered as if that witness testified before the
7 witness stand.

8 An act or omission is regarded as a cause of an
9 injury if it was a substantial factor in bringing about the
10 injury. That is, if it has such an effect in producing the
11 injury that reasonable people would regard it as a cause of
12 the injury. There may be more than one cause of an injury.
13 But to be substantial, it cannot be slight or trivial. You
14 may, however, decide that a cause is substantial even if you
15 assign a relatively small percentage to it.

16 Negligence requires both a reasonably foreseeable
17 danger of injury to another and conduct that is unreasonably
18 and proportionate to that danger.

19 A person is only responsible for the results of his
20 or her conduct if the risk of injury is reasonably
21 foreseeable. The exact occurrence or exact injury does not
22 have to be foreseeable, but injury as a result of negligent
23 conduct must be not merely possible, but probably.

24 There is negligence if a reasonably prudent person
25 could foresee injury as a result of his or her conduct and

-Charge-

1 acted unreasonably in the light of what could be foreseen.

2 On the other hand, there is no negligence if a
3 reasonably prudent person cannot have foreseen any injury as
4 a result of his or her conduct or acted reasonably in the
5 light of what could have been foreseen.

6 As you have heard, the Plaintiff, Gregory Scott,
7 seeks damages for false arrest. Gregory Scott claims that
8 the Defendants caused him to be arrested for the crime of
9 crime mischief in the fourth degree and caused him to sustain
10 damages.

11 A person commits a false arrest if he or she
12 intentionally and without the right to do so causes an
13 arrest of another who is aware of the arrest and does not
14 consent to it.

15 In addition, one who instigates or directs an
16 arrest or detention made by a police officer is liable,
17 therefore, if the arrest is made not of the police officer's
18 own volition but to carry out the Defendant's request. Such
19 a person is not liable if he or she merely gives information
20 to the officer, leaving it to the officer to act or not to
21 act as he or she deems proper.

22 Gregory Scott claims that the Defendant Shpend
23 Nezaj, Hamdi Nezaj, or Lazer Plunaj instigated or directed
24 his arrest or detention made by a police officer for the
25 crime of criminal mischief in the fourth degree for breaking

-Charge-

1 a window at the apartment building where Gregory Scott
2 resides.

3 Defendant Kosova Properties, Inc., Hamdi Nezaj and
4 Shpend Nezaj deny having anything to do with Lazer Plunaj's
5 decision to contact the police and report a crime.

6 Responsibility for an unlawful arrest or detention
7 is incurred not only by the person who instigates or directs
8 it but by his or her employer, if the exact is within the
9 scope of employment; and on the ladder question, employer's
10 rules, if any, relate to making arrests may be considered.

11 The Defendant Kosova Properties, Inc., Hamdi Nezaj,
12 Shpend Nezaj, and Lazer Plunaj became aware that Gregory
13 Scott was arrested. In order to recover against the
14 Defendant Lazer Plunaj, the Plaintiff must establish that
15 Lazer Plunaj intentionally and without the right to do so
16 instigated or directed the police to arrest Gregory Scott.

17 Gregory Scott must show that Lazer Nezaj took an
18 active role in the Plaintiff's arrest and that Lazer Nezaj
19 intended that Gregory Scott be confined.

20 In order to recover against the Defendant Shpend
21 Nezaj, the Plaintiff must establish that Shpend Nezaj
22 intentionally, and without the right to do so, instigated or
23 directed the police to arrest Gregory Scott.

24 Gregory Scott must show that Shpend Nezaj took an
25 active role in the Plaintiff's arrest and that Shpend Nezaj

-Charge-

1 intended Gregory Scott be confined.

2 In order to recover against the Defendant Hamdi
3 Nezaj, the Plaintiff must establish that Hamdi Nezaj
4 intentionally, and without the right to do so, instigated or
5 directed the arrest of Gregory Scott.

6 Gregory Scott must show that Hamdi Nezaj took an
7 active role in Plaintiff's arrest and that Hamdi Nezaj
8 intended that Gregory Scot be confined.

9 Gregory Scott may recover against the Defendant
10 Kosova Properties, Inc. by establishing that the Defendant,
11 Lazer Plunaj, committed a false arrest and that Kosova
12 Properties, Inc. should be held vicariously liable for Lazer
13 Plunaj's alleged acts;

14 In order to do so, the Plaintiff must establish
15 that Lazer Plunaj was acting within the scope of his
16 employment with Kosova Properties, Inc. when he allegedly
17 committed false arrest against Gregory Scott;

18 Or that Gregory Scott may recover against the
19 Defendant Kosova Properties, Inc. by establishing that the
20 Defendant Shpend Nezaj committed a false arrest against
21 Gregory Scott and Kosova Properties, Inc. should be held
22 vicariously liable for Shpend Nezaj's alleged acts;

23 In order to do so, the Plaintiff must establish
24 Shpend Nezaj was acting within the scope of his employment
25 of Kosova Properties, Inc. when he allegedly committed a

-Charge-

1 false arrest against Gregory Scott.

2 If you find that Hamdi Nezaj's negligence committed
3 a false arrest, you may find that he, as the owner of the
4 Kosova Properties, Inc., was acting on behalf of Kosova
5 Properties, Inc.

6 The fact that I charge you on the law of damages
7 must not be taken as an indication that you should find for
8 the Plaintiff. If you find for the Plaintiff on this false
9 arrest claim, he's entitled to recover for damages
10 reasonably and proximately caused by his false arrest of
11 defense. You will award him such an amount, as in the
12 exercise of your good judgment and common sense, you find
13 fair and just compensation for any injury to the Plaintiff's
14 reputation, relation and mental anguish and/or expenses
15 incurred by the Plaintiff and the Defendant against the
16 false arrest in Criminal Court.

17 In this action, the Plaintiff seeks damages he
18 claims results from the prosecution for the crime of
19 criminal mischief. He claims that the Defendant Lazer
20 Plunaj was responsible for initiating the prosecution of
21 calling the New York City Police Department and reporting
22 the crime to the responding officers who arrested the
23 Plaintiff.

24 In addition, the Plaintiff claims that the
25 Defendants Kosova Properties, Inc., Hamdi Nezaj, and Shpend

-Charge-

1 Nezaj were responsible for initiating the prosecution.

2 The Defendant Lazer Plunaj has not appeared in this
3 proceeding. The Defendant Kosova Properties, Inc., Hamdi
4 Nezaj, Shpend Nezaj deny having anything to do with Lazer
5 Plunaj's decision to contact the police and report the
6 crime.

7 In order to recover against Lazer Plunaj, the
8 Plaintiff must establish that Lazer Plunaj initiated the
9 prosecution and that at the time the prosecution was
10 initiated, Lazer Plunaj did not have probable cause to
11 believe that the Plaintiff was guilty of criminal mischief
12 and that initiating the prosecution, Lazer Plunaj acted
13 maliciously.

14 In order to recover against Shpend Nezaj, the
15 Plaintiff must establish that Shpend Nezaj initiated the
16 prosecution and at the same time the prosecution was
17 initiated, Shpend Nezaj did not have probable cause to
18 believe that the Plaintiff was guilty of criminal mischief,
19 and that in initiating the prosecution, Shpend Nezaj acted
20 maliciously.

21 In order to recover against Hamdi Nezaj, the
22 Plaintiff must establish that Hamdi Nezaj initiated the
23 prosecution and at the same time the prosecution was
24 initiated, Hamdi Nezaj did not have probable cause to
25 believe that the Plaintiff was guilty of criminal mischief

-Charge-

1 and that in initiating the prosecution Hamdi Nezaj acted
2 maliciously.

3 Gregory Scott may recover against Kosova Properties
4 by establishing that the Defendant Lazer Plunaj was liable
5 for malicious prosecution and that Lazer Plunaj was acting
6 within the scope of his employment with Kosova Properties
7 when he committed acts constituting malicious prosecution.

8 Gregory Scott may recover against Kosova
9 Properties, Inc. by establishing that the Defendant Shpend
10 Nezaj was liable for malicious prosecution and that Shpend
11 Nezaj was acting within the scope of his employment with
12 Kosova Properties, Inc. when he committed acts constituting
13 of malicious prosecution.

14 Gregory Scott may recover against Kosova
15 Properties, Inc. by establishing that the Defendant Hamdi
16 Nezaj is liable for malicious prosecution and that Hamdi
17 Nezaj was acting within the scope of his employment with
18 Kosova Properties, Inc. when he committed acts constituting
19 malicious prosecution.

20 The first question for you to decide is whether the
21 Defendants Lazer Plunaj, Shpend Nezaj, and/or Hamdi Nezaj
22 initiated the criminal prosecution.

23 To demonstrate that Lazer Plunaj initiated the
24 criminal prosecution, Gregory Scott must prove that Lazer
25 Plunaj affirmatively induced the officer to act by procuring

-Charge-

1 and taking an active part in the arrest, by showing active,
2 officious, and undo zeal, to the point where the officer is
3 not acting on his or her own volition.

4 To demonstrate that Shpend Nezaj initiated the
5 criminal prosecution, Gregory Scott must prove that Shpend
6 Nezaj affirmatively induced the officer to act by procuring
7 and taking an active part in the arrest by showing an active
8 vicious and undo zeal to the point where the officer is not
9 acting on his or her own volition. Shpend Nezaj persuaded
10 Lazer Plunaj to make the complaint and that without Shpend
11 Nezaj's persuasion, Lazer Plunaj would not have made the
12 complaint.

13 To demonstrate that Hamdi Nezaj initiated the
14 criminal prosecution, Gregory Scott must prove that Hamdi
15 Nezaj affirmatively induced the officer to act by procuring
16 and taking an active part in the arrest by showing an active
17 vicious and undo zeal, to the point where the officer is not
18 acting on his or her own volition. Hamdi Nezaj persuaded
19 Lazer Plunaj to make the complaint and that without Hamdi
20 Nezaj's persuasion Lazer Plunaj would not have made the
21 complaint.

22 If the answer to the first question for Lazer
23 Plunaj, Shpend Nezaj and/or Hamdi Nezaj is yes, the second
24 question for you to decide is whether Lazer Plunaj, Shpend
25 Nezaj and Hamdi Nezaj have probable cause to believe that

-Charge-

1 the Plaintiff was guilty of crime mischief at the time that
2 the prosecution was initiated.

3 Whether probable cause existed depends upon a
4 reasonably prudent person would have believed the Plaintiff
5 was guilty of the charged on the basis of facts known to the
6 Defendant at the time that the prosecution was initiated or
7 what he reasonably believed to be true.

8 The fact that the Defendant personally believed the
9 Plaintiff is guilty is not enough if a reasonably prudent
10 person would not have believed that to be so.

11 On the other hand, the fact that the prosecution
12 agreed to dismiss the prosecution against Gregory Scott does
13 not establish that the Defendant lacked probability at the
14 time that the prosecution was initiated.

15 The question on the issue of probable cause is not
16 whether the Plaintiff was in fact guilty or innocent or
17 whether the Defendant was in fact mistaken or correct, but
18 rather whether on the facts known to or reasonably believed
19 by the Defendant a reasonably prudent person would have
20 believed the Plaintiff was guilty.

21 If the answer to the second question for Lazer
22 Plunaj, Shpend Nezaj, and/or Hamdi Nezaj is yes, the third
23 question for you to decide is whether Lazer Nezaj, Shpend
24 Nezaj, and/or Hamdi Nezaj acted maliciously.

25 A prosecution is initiating maliciously if it is

-Charge-

1 brought for a purpose of other than bringing an offender to
2 justice or out of personal ill will.

3 If you find that a Defendant did not act
4 maliciously, you will find for the Defendant even if you
5 find that the Defendant initiated the criminal prosecution
6 and did not have probable cause to believe that the
7 Plaintiff was guilty of criminal mischief;

8 If you find that the Plaintiff has proved the
9 Defendant initiated the criminal prosecution did not have
10 probable cause and acted maliciously, the Plaintiff is
11 entitled to recover and you will proceed to the question of
12 damages as to the Defendants.

13 The fact that I charge you on the law of damages
14 must not be taken as an indication that you should find for
15 the Plaintiff. It is for you to decide whether Gregory
16 Scott has proved the initiation of a criminal proceeding,
17 lack of probability cause, and malice as to Lazer Plunaj
18 Shpend Nezaj and/or Hamdi Nezaj and Kosova Properties, Inc.
19 should be held vicariously liable for Lazer Plunaj, Shpend
20 Nezaj and/or Hamdi Nezaj's action.

21 Only if you find that the Plaintiff has proved all
22 three as to any of the remaining Defendants will you
23 consider the measure of damages.

24 If you find for the Plaintiff is entitled to
25 recover for the actual damage resulting from the criminal

-Charge-

1 prosecution, you award him such an amount as in the exercise
2 of your good judgment and common sense you find is fair and
3 just compensation for any injury the Plaintiff's reputation,
4 humiliation, and mental anguish is resulting from the
5 criminal prosecution injury and inconvenience to the
6 Plaintiff caused by the criminal prosecution and/or expenses
7 incurred by the Plaintiff in the defending the criminal
8 prosecution.

9 While generally an employer is not responsible for
10 acts of an employee that are outside the scope of his
11 employment, it has a duty to use reasonable care of the
12 employment training supervision of its employee to find out
13 whether they are competent to do their job without doing
14 harm to others. This duty of reasonable care has two
15 aspects.

16 An employer fails in his duty where he knows that
17 an employee has a propensity to lie and the employee fails
18 to use reasonable care to prevent harm to an employee. An
19 employer who fails in the duty of reasonable care when he
20 knows the facts that a reasonably prudent person to conduct
21 an investigation which could have uncovered the information
22 about the employee and fails to do so.

23 When the employer fails in its duty, it is liable
24 for harm that results provided a reasonably prudent person
25 would have foreseen the likelihood of injury to others by

-Charge-

1 that employee. The employer is liable for any harm to any
2 persons resulting from its employee's propensity to lie even
3 though the employee was not at the time acting within the
4 scope of his employment. By reasonable care is meant that
5 degree of care that a reasonably prudent employer would use
6 under the same circumstances.

7 If you find one, that the Defendant Kosova
8 Properties, Inc. employed Shpend Nezaj and Lazer Plunaj had
9 a disposition to lie;

10 Two, that the Defendant had knowledge of that fact
11 or facts which caused a reasonably prudent person to
12 investigate the employee's disposition;

13 Three, the Defendant Kosova Properties, Inc. could
14 have reasonably have anticipated that Shpend Nezaj and Lazer
15 Plunaj's vicious disposition or propensity to lie would be
16 likely to result in injury to others;

17 And four, that the Defendant Kosova Properties,
18 Inc. failed to use reasonable care to correct or remove
19 Shpend Nezaj and Lazer Plunaj, you will find that the
20 Defendant Kosova Properties, Inc. was at fault.

21 If, however, you find that Shpend Nezaj and Lazer
22 Plunaj did not have a propensity to lie or that though he
23 was the Defendant Kosova Properties, Inc. did not know that
24 fact or facts that would cause a reasonably prudent person
25 to investigate the employee's disposition of that a

-Charge-

1 reasonably prudent person would not foresee that Shpend
2 Nezaj, Lazer Plunaj's vicious disposition of propensity to
3 lie would cause injury, you will find that the Defendant
4 Kosova Properties, Inc. was not at fault.

5 An employer is responsible for the act of its
6 employee if the act is in furtherance of the employer's
7 business and within the scope of employer's authority. A
8 fact within an employee's authority if it is performed while
9 the employee is engaged generally in the performance of his
10 or hers duties, or if the act is reasonable necessary or
11 incidental to employee. The employer may not have
12 authorized specific act in question.

13 Among the facts you may consider in deciding
14 Shpend Nezaj and Lazer Plunaj were acting in the furtherance
15 of the employer's business, within the scope of his
16 authority, you may conclude the connection between the time,
17 place and occasion for the act. The history of the
18 relationship between Shpend Nezaj or Lazer Plunaj and Kosova
19 Properties, Inc. as spelled out in actual practice. Whether
20 the act is one commonly done by such employee, the extent of
21 departure from normal methods and whether the specific act
22 was one that Kosova Properties, Inc. could reasonably
23 anticipate.

24 If you find Shpend Nezaj or Lazer Plunaj negatively
25 caused injury to the Plaintiff while acting within the scope

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1 of his authority and in furtherance of Kosova Properties,
2 Inc.'s business, then Kosova Properties, Inc. is legally
3 responsible for the conduct of Shpend Nezaj and Lazer
4 Plunaj.

5 My charge to you on the law of damages must not be
6 taken as a suggestion that you should find for the
7 Plaintiff. It is for you to decide from the evidence
8 presented and the rules of law I have given you, whether the
9 Plaintiff is entitled to recover from the Defendant.

10 If you decide that the Plaintiff is not entitled to
11 recover from the Defendant, you need not consider damages.
12 Only if you decide that the Plaintiff is entitled to recover
13 will you consider the measure of damages.

14 If you find that the Plaintiff is entitled to
15 recover from the Defendant, you must remit a verdict in the
16 sum of money that will just fairly and compensate the
17 Plaintiff of all losses resulting from the injuries and
18 disabilities sustained.

19 During the closing remarks, counsel for Plaintiff
20 suggested a specific dollar amount he believes to be
21 appropriate compensation for specific elements of the
22 Plaintiff's damages. An attorney is permitted to make
23 suggestions as to amount that should be awarded. Those
24 suggestions are argument only, not evidence and should not
25 be considered as evidence of Plaintiff's damages. The

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1 determination of damages is solely for you the jury to
2 decide.

3 In addition to awarding damages to compensate the
4 Plaintiff Gregory Scott for his injuries, you may, but you
5 are not required to, award Gregory Scott punitive damages if
6 you find that the acts of the Defendant Lazer Plunaj, Shpend
7 Nezaj and Hamdi Nezaj caused the injury complained of and
8 were malicious.

9 The Plaintiff Gregory Scott must establish
10 entitlement of punitive damages by clear unequivocal and
11 convincing evidence.

12 Punitive damages may be awarded that represents a
13 high of impossibility. The purpose of punitive damages is
14 not to compensate the Plaintiff but to punish the Defendants
15 for malicious acts, and, therefore, discouraging the
16 Defendant and other people and/or companies from acting in a
17 similar way in the future, with intention to interfere with
18 those rights.

19 If you find that Lazer Plunaj, Shpend Nezaj and
20 Hamdi Nezaj's acts were not malicious, you need not proceed
21 no further in deliberation of this issue.

22 On the other hand, if you find that Lazer Plunaj,
23 Shpend Nezaj and Hamdi Nezaj's acts were malicious you award
24 Gregory Scott damages.

25 If you find that the Plaintiff is entitled to

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1 recovery from the Defendants, you must also include in your
2 verdict damages for any mental suffering, emotional
3 psychological injury, or any physical consequence as a
4 result of emotional distress caused by the wrongful act of
5 the Defendants.

6 I've now outlined the rules of law that apply to
7 this case and the processes by which you weigh the evidence
8 and decide the facts.

9 The first thing you should do in the jury room is
10 choose a foreperson. The foreperson has several duties.

11 It is the foreperson's duties who keeps order in
12 the jury room and makes sure that you each have an
13 opportunity to speak and just as important to listen to your
14 fellow jurors. When you have a question or request a
15 foreperson will write a note, place the date and time on it
16 and sign it. Similarly, the foreperson will mark your
17 answers on the foreperson's copy of the verdict sheet.
18 However, despite all these duties, the foreperson's view of
19 the evidence and his or her vote is entitled to no greater
20 weight than that of any other juror.

21 Your function to reach a fair decision from the law
22 and the evidence is an important one.

23 When you are in the jury room, listen to each other
24 and discuss the evidence and issues in the case among
25 yourselves. It is the duty of each of you as jurors to

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1 consult with one another and to deliberate with the goal of
2 reaching agreement on a verdict, if you can do so without
3 violating your individual judgment or your conscience.

4 While you should not surrender conscientious
5 convictions of what the truth is and/or the weight and
6 affects of the evidence and while each of you must decide
7 the case for yourselves and not merely consent to the
8 decision of your fellow jurors, you should exam the issues
9 and the evidence before you with candor, frankness and with
10 proper respect and regard for the opinions of each other.

11 Remember, your deliberations that dispute between
12 the parties is for them a very important matter. They and
13 the Court rely upon you to give full and conscientious
14 deliberation and consideration to the issue of evidence
15 before you. By doing so you carry out to the fullest your
16 oaths as jurors to truly try the issues of this case and
17 render a true verdict.

18 At this point, I'm going to excuse our additional
19 juror. As I told you before, only six of you will
20 deliberate. Additional jurors were required as safeguard
21 possibility that one or move might be unable to complete his
22 or her service. Those of you who will not be deliberating
23 must not communicate anything about the case in any fashion,
24 with the sitting jurors, other alternates or anyone else
25 until after a verdict has been rendered or I may instruct

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1 you otherwise. I commend all of you for your faithful
2 attention on behalf of the Court and the parties I thank you
3 for your service.

4 Thank you.

5 So, Ladies and Gentlemen, I'm going to ask you to
6 start your deliberation. A couple of things:

7 There's no rush, you're not obligated to finish
8 today, you could come back tomorrow.

9 It is late in the day because of what we did. I'm
10 going to ask you at 4:00 or 4:15, "Do you want to just come
11 back tomorrow?" If you think you will come back tomorrow
12 we'll just come back tomorrow and leave at a decent hour.
13 If you think you're close, we'll stay. There's no pressure
14 here. I want to make sure you know you could come back and
15 if you're not going to finish, let me know earlier and we
16 could leave and start tomorrow.

17 Thank you.

18 THE CLERK: All rise. Jury exiting.

19 MR. COOKSON: Are you discharging the alternate
20 right now?

21 THE COURT: Actually, I want to tell you that I
22 think we should keep them.

23 We had a situation SO we'll keep the alternate.

24 Off the record.

25 (Off the record discussion held.)

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1 THE COURT: On the record.

2 MR. COOKSON: Remember we removed vicious.

3 THE COURT: I didn't read what you crossed out. I
4 read -- I used -- I used your words.

5 MR. COOKSON: The point, twice you actually the
6 words came out anyway.

7 THE COURT: Then you must not have crossed it out.
8 I literally read what you gave me. I'll show it to you.

9 MR. COOKSON: I have another question about jury
10 instructions.

11 I want to put on the record from before about Mr.
12 Basil's reference to Joey testifying about having had his
13 nose broken and the implication of that. I should probably
14 have objected at the time, but the only other thing would
15 have been --

16 (Hanging.)

17 THE COURT: I'm sorry, am I distracting you from
18 completely.

19 I'm not sure what the situation from the nose is.
20 I don't remember from the initial testimony. I have no
21 independent recollection. It is up to the jurors anyway.

22 Remember, I think it is argument it doesn't matter.

23 MR. COOKSON: The incident of getting his nose
24 punched took place three years after this arrest, it had
25 nothing to do with.

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1 THE COURT: I don't remember testifying what would
2 be the objection?

3 What are you saying, he mentions it? What is the
4 issue.

5 MR. COOKSON: I think part Mr. Basil's argument is
6 that the Defendants were motivated to have Mr. Scott falsely
7 arrested because of the things he did, right, the tenants
8 association and so forth. And certainly getting punched in
9 had the face, if they believe it happened before the arrest
10 would factor into their decision.

11 THE COURT: They're going to decide that, that is
12 what their recollection is about.

13 MR. COOKSON: But they don't know that.

14 THE COURT: You don't know what they know.
15 Personally, I don't have knowledge of anything with the
16 nose. Did he testify to that?

17 MR. COOKSON: When Mr. Basil asked Joey a question,
18 he responded and you stopped it, which was the right thing
19 to do, you stopped him. But then you commented on it in
20 summation.

21 THE COURT: This is my ruling.

22 My ruling is, the jurors are going to decide what
23 facts will be evidence and they're going to put whatever
24 weight they want to put to anything. I'm glad you made your
25 objection, I note that you did not make it at the time of

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1 the said, I probably would have overruled for the same
2 reasons.

3 MR. COOKSON: I think the only way we solve the
4 problem--

5 THE COURT: --I think we solve that problem. I
6 read it the way you have.

7 Let the record reflect that in terms of the
8 apparent jury charge as it pertains to negligence
9 supervision, hiring or retention, I literally used the copy
10 provided by --

11 MR. COOKSON: I don't dispute that. I think you
12 inadvertently --

13 THE COURT: --by attorney Cookson.

14 MR. COOKSON: You did it a couple of times. We
15 have the reporter read it back then we'll know for sure. I
16 could be wrong but I'm not the only one who heard it.

17 Mr. LaSala heard it, he came up to me.

18 THE COURT: Okay. This is what I am going to tell
19 you.

20 I maintain I read what was given to me and has
21 cross outs this is part of the exhibit. Note it is not
22 crossed out every time on this paper, which is why I didn't
23 not say it. So, again, I see one "vicious" right here there
24 might be more. I'm happy to correct this, I really am. You
25 moving it be reread now and I will gladly if you want I

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1 could bring them back and make a firm amendment if they
2 heard me say the word vicious. We'll work on the wording,
3 we'll correct that. That is what these opportunities are
4 for. I'm sure they did not get that far yet, that is not a
5 problem. It is easy to overlook.

6 Don't be so hard, you keep reading the same thing.
7 We do this all the time. We see the words. I know you've
8 been working on this for awhile, you read it this morning,
9 it is okay. We did not see whatever number of times.

10 Take your time, you could make --you want to start
11 working on the words we say to the jurors and how you fix
12 it. I'm happy to do so.

13 It happens when you started editing the charges.
14 It is important it is common mistake, we can make this
15 right. Whenever that is done work than the wording.

16 MR. COOKSON: We'll leave it about.

17 It is not in the verdict sheet, it was kind of in
18 there --

19 THE COURT: I'll do whatever you want.

20 MR. BASIL: Harmless error.

21 THE COURT: I'll do whatever you want to correct
22 it, it is not a problem.

23 MR. BASIL: We're good with letting it lie.

24 THE COURT: Okay.

25 MR. COOKSON: If I may.

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1 THE COURT: Thank you.

2 Is this like a withdrawn objection?

3 MR. COOKSON: I wanted to bring it to your
4 attention that I heard it and I thought you had made a
5 mistake, you didn't make a mistake.

6 THE COURT: Okay what was the last part.

7 MR. COOKSON: You didn't make a mistake.

8 THE COURT: Oh, okay.

9 (Whereupon, the jury starts deliberations.)

10 (Whereupon, document is so marked as Court I.)

11 THE COURT: Jury Note #1: "Would like the
12 verification as to if taking an active role in the arrest
13 includes calling the police or if active role requires
14 directing police to address the issue by performing an
15 arrest.

16 Can we get a copy of the arrest report in
17 evidence?"

18 THE COURT OFFICER: The evidence I could.

19 THE COURT: All right. And how would you like me
20 to answer this question? We could do the evidence.

21 I say we read the charge.

22 MR. COOKSON: Yes, I don't think there's any option
23 to improvise.

24 THE COURT: Which charge.

25 MR. COOKSON: That's a good question.

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1 MR. BASIL: False arrest.

2 False arrest.

3 THE COURT: Read false arrest.

4 Could you bring the jury down.

5 THE COURT OFFICER: Yes.

6 THE COURT: Stipulation 1 and 6 is in evidence.

7 MR. COOKSON: That does not include the arrest
8 report.

9 THE COURT: We could go off the record.

10 (Whereupon, a discussion was held off-the-record.)

11 THE COURT: The complaint.

12 What else is in evidence.

13 MR. COOKSON: I'm not sure what the problem is --

14 THE COURT: I'm asking what document from the
15 criminal case is in evidence, the criminal complaint?

16 MR. COOKSON: Nothing.

17 MR. BASIL: Nothing. This was up on the screen --

18 THE COURT: I'm not understanding.

19 MR. COOKSON: The arrest report means something to
20 me.

21 THE COURT: Yeah, okay. We're going to go on the
22 record.

23 So to the extent that the jury is asking for: Can
24 we also get a copy of the arrest record in evidence?

25 The one criminal document is the complaint and that

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1 is exhibit what.

2 MR. BASIL: Plaintiff's Exhibit 6.

3 THE COURT: That is what we're going to give the
4 jury.

5 Did you want to say something?

6 MR. COOKSON: I wasn't arguing.

7 THE COURT: No, I am saying, did you want to say
8 something.

9 MR. COOKSON: No, the complaint --the DAT ticket,
10 the complaint and the stipulation.

11 THE COURT: You want them to see that as well DAT
12 ticket.

13 MR. BASIL: No.

14 THE COURT: The initial question: I'm going to
15 read the charge for false arrest, great.

16 Okay. Good. So we're ready to proceed.

17 THE COURT OFFICER: All right.

18 THE COURT: I'm going to read false arrest.

19 MR. BASIL: We're fine with false arrest.

20 MR. COOKSON: The language that.

21 THE COURT: Did you want to bring the document in
22 first?

23 THE COURT OFFICER: They want the charge.

24 All rise. Jury entering.

25 (Whereupon, the jury enters the courtroom and the

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1 following is heard inside the hearing and presence of the
2 jury.)

3 THE COURT: Thank you. You may be seated.

4 I received your jury note that: Would like the
5 verification as to if taking an active role in the arrest
6 includes calling the police or if active role requires
7 directing police to address the issue by performing an
8 arrest.

9 To answer that, we are going to reread the charge
10 of false arrest. Your other inquire can we get a copy of
11 the arrest record in evidence. The officer will provide you
12 with what. We think we know what you're referring to and
13 that is Exhibit 6. I'll get to the reading.

14 Let me know if you can't hear me:

15 As you have heard, the Plaintiff Gregory Scott
16 seeks damages for false arrest.

17 Gregory Scott claims that the Defendants caused him
18 to be arrested for the crime of criminal mischief in the
19 fourth degree and caused him to sustain damages.

20 A person commits a false arrest if he
21 intentionally, and without the right to do so, causes an
22 arrest of another who was aware of the arrest and does not
23 consent to it.

24 In addition, one who instigates or directs an
25 arrest or detention made by the police officer is liable;

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1 therefore, if the arrest is made not of the police officer's
2 own volition but to carry out the Defendant's request. Such
3 a person is not liable if he or she merely gives information
4 to the officer, leaving it to the officer to act or not to
5 act.

6 Gregory Scott claims the Defendants Shpend Nezaj,
7 Hamdi Nezaj and Lazer Plunaj instigated or directed his
8 arrest or detention by the police officer for the crime of
9 criminal mischief in the fourth degree for breaking a window
10 at the apartment where Gregory Scott resides.

11 The Defendants Kosova Properties, Inc., Hamdi
12 Nezaj, and Shpend Nezaj denies having anything to do with
13 Lazer Plunaj's decision to contact the police and report a
14 crime.

15 Responsibility for an unlawful arrest or its
16 intention is occurred not only by the person who instigates
17 or directs it, but by his or her employer to act within the
18 scope of employment and on the ladder question, the
19 employer's roles, if any, relating to making arrest, may be
20 considered.

21 The Defendants Kosova Properties, Inc., Hamdi
22 Nezaj, Shpend Nezaj, and Lazer Plunaj became aware that
23 Gregory Scott was arrested.

24 In order to recover against the Defendant, Lazer
25 Plunaj, the Plaintiff must establish that Lazer Plunaj

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1 intentionally, without the right to do so, instigated or
2 directed the police to arrest Gregory Scott.

3 Gregory Scott must show that Lazer Nezaj took an
4 active role in Plaintiff's arrest and Lazer Nezaj intended
5 that Gregory Scott be confined.

6 In order to recover against the Defendant, Shpend
7 Nezaj, the Plaintiff must establish that Shpend Nezaj
8 intentionally, and without the right to do so, instigated or
9 directed the police to arrest Gregory Scott.

10 Gregory Scott must show that Shpend Nezaj took an
11 active role in Plaintiff's arrest and that Shpend Nezaj
12 intended that Gregory Scott be confined.

13 In order to recover against the Defendant Hamdi
14 Nezaj, the Plaintiff must establish that Hamdi Nezaj
15 intentionally and without the right to do so instigated or
16 directed the arrest of Gregory Scott.

17 Gregory Scott must show that Hamdi Nezaj took an
18 active role in the Plaintiff's arrest and that Hamdi Nezaj
19 intended that Gregory Scott be confined.

20 Gregory Scott may recover against the Defendant
21 Kosova Properties, Inc. by establishing that the Defendant
22 Lazer Plunaj committed false arrest that Kosova Properties,
23 Inc. should be held vicariously liable for Lazer Plunaj's
24 alleged acts in order to do so the Plaintiff must establish
25 that Lazer Plunaj was acting within the scope of his

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1 employment of Kosova Properties, Inc. when he allegedly
2 committed false arrest against Gregory Scott; or Gregory
3 Scot may recover against Kosova Properties, Inc. by
4 establishing that the Defendant Shpend Nezaj committed false
5 arrest against Gregory Scott and that Kosova Properties,
6 Inc. should be held vicariously liable for Shpend Nezaj's
7 alleged acts.

8 In order to do so the Plaintiff must establish that
9 Shpend Nezaj was acting in the scope of his employment with
10 Kosova Properties, Inc. when he allegedly committed false
11 arrest against Gregory Scott.

12 If you find that Hamdi Nezaj committed a false
13 arrest, you may find that he, as owner of Kosova Properties,
14 Inc. was acting on behalf of Kosova Properties, Inc.

15 The fact that I charge you on the law of damages
16 must not be taken as an indication that you should find for
17 the Plaintiff.

18 If you find for the Plaintiff on this false arrest
19 claim, he's entitled to recover those damages reasonably and
20 proximately caused by his false arrest and detention, you
21 will award him such an amount as in that the exercise of
22 your good judgment and common sense you find fair and just
23 compensation for any injury to the Plaintiff's reputation
24 humiliation and business and/or expenses occurred by
25 defending against the false arrest in criminal court.

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1 Are the parties satisfied.

2 MR. COOKSON: Yes, your Honor.

3 MR. BASIL: Yes your Honor.

4 THE COURT: Ladies and Gentlemen, are you
5 satisfied?

6 THE JURY: Yes.

7 THE COURT: You could also come back for --

8 Is this a good time to break until tomorrow and
9 come back ten.

10 THE JURY: Yes.

11 THE COURT: We're going to have you leave and come
12 back at 10:00, including the alternate.

13 Okay. So regarding the police report, you called
14 arrest report, we'll give that to you tomorrow.

15 Thank you.

16 THE COURT OFFICER: All rise. Jury exiting.

17 (Whereupon, the jury exits the courtroom and the
18 following is heard outside the hearing and presence of the
19 jury.)

20 (Whereupon, Note is so marked as Court's
21 Exhibit II.)

22 (Whereupon, the trial stood in recess until 10:00
23 March 6, 2025.)

24

25